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Dec No 15462

DIGEST
OF
"PRECEDENTS OR DECISIONS"
BY
SELECT COMMITTEES
APPOINTED TO TRY THE MERITS OF
UPPER CANADA CONTESTED ELECTIONS,
FROM
1824 TO 1849.

BY
ALFRED PATRICK,
CLERK OF COMMITTEES, LEGISLATIVE ASSEMBLY.

Montreal:
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1849.

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TO

THE HONORABLE ROBERT BALDWIN,

Her Majesty's Attorney General for Upper Canada,

A MEMBER OF THE HON. THE EXECUTIVE COUNCIL,

AND

ONE OF THE REPRESENTATIVES IN PARLIAMENT FOR THE COUNTY OF YORK,

THIS

COMPILATION

OF

"PRECEDENTS OR DECISIONS"

Is Inscribed,

WITH SENTIMENTS OF THE HIGHEST RESPECT,

BY

HIS MOST OBEDIENT HUMBLE SERVANT,

ALFRED PATRICK.

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P R E F A C E .

HAVING observed for many years, great inconvenience to have been experienced by Committees appointed for the trial of Upper Canada Controverted Election Cases, from their having been unable to avail themselves of decisions of former Committees on points decided by them after being ably argued by Counsel: and this inconvenience being now greatly increased by the fact, that gentlemen from Lower Canada, who may not possess a full knowledge of the Cases decided in Upper Canada prior to the Union, are frequently to serve on such Committees: I have therefore applied myself in compiling, from existing original scrolls, the "Precedents or Decisions" which are hereto annexed.

Much difficulty presented itself at the commencement of this work, from the circumstance of such scrolls having been very indifferently preserved; which has, doubtless, arisen from the belief, that the proceedings of Election Committees were of a secret nature—and that the final decision upon a Case, was all that was worthy of preservation.

From an experience of twenty years, acting in the capacity of Clerk to these Committees, I have frequently witnessed a desire on their part to avail themselves of Decisions previously given by Canadian Committees upon questions argued before them; in addition to authorities obtained from the practice of the British Parliament; and a wish on my part, to aid in complying with this desire, is the object sought by me to be accomplished.

The almost total loss of the Minutes, or even *memoranda*, of the proceedings of Election Committees in the Parliaments of Upper Canada, since the passing of the Grenville Act in 1824, is the cause of my inability to give more than abstracts of the Cases, prior to the Union of the Provinces; as, throughout, I have carefully avoided noting any decision, without a record of the same appearing on the original Minutes of the Committee trying the Case.

ALFRED PATRICK.

COMMITTEE ROOM,
LEGISLATIVE ASSEMBLY, }
20th April, 1849.

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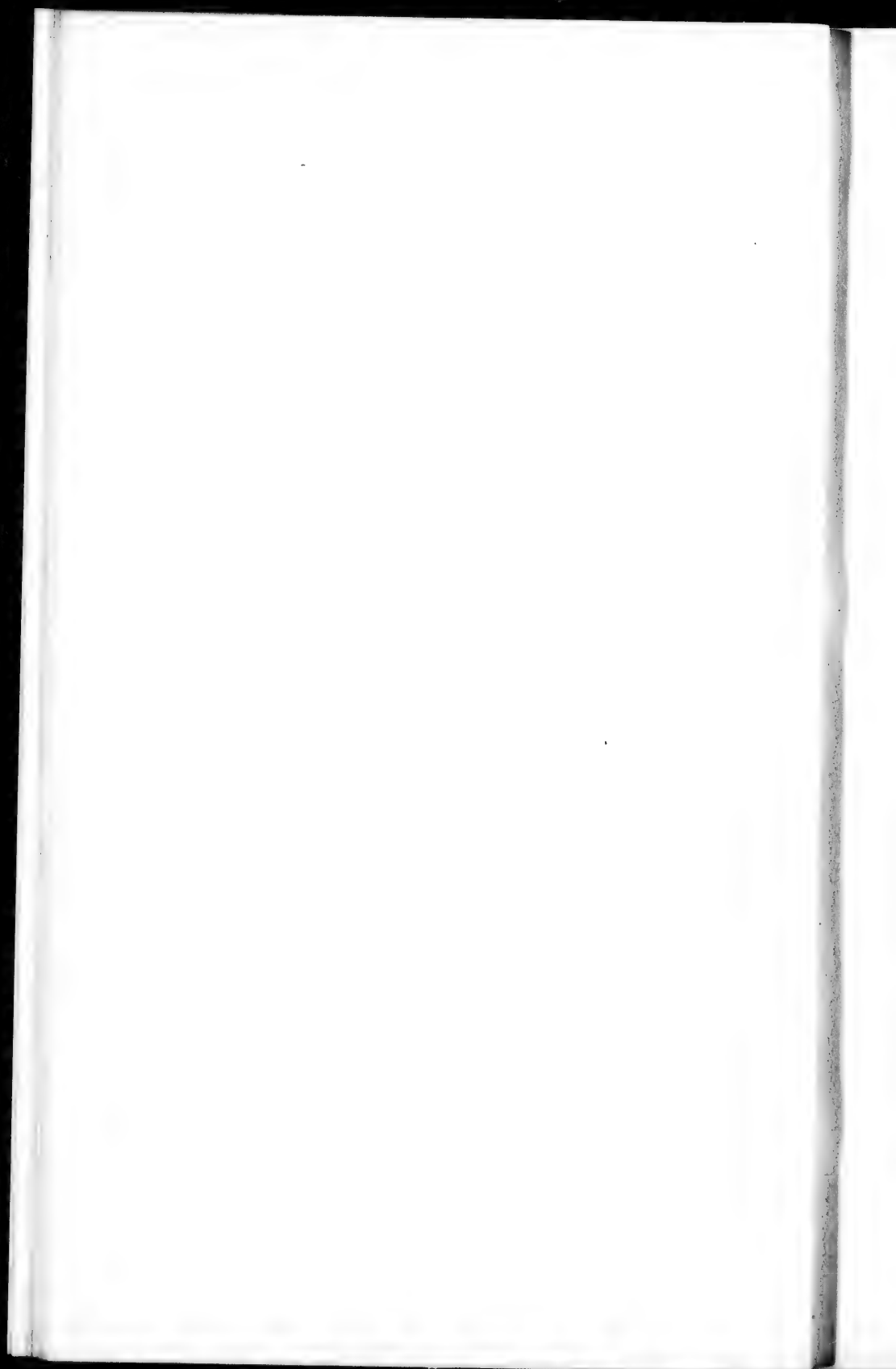
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UPPER CANADA CASES,

FROM

1824 to 1841.



CASE I.

COUNTY OF ESSEX, 1825.

Committee.

HUGH C. THOMSON, Esquire, M. P. P. for Frontenac,
(Chairman.)

THOMAS COLEMAN, Esq.,
M. P. P. for Hastings.

RICHARD BEASLEY, Esq.,
M. P. P. for Halton.

JOHN J. LEFFERTY, Esq.,
M. P. P. for Lincoln.

CHARLES INGERSOLL, Esq.,
M. P. P. for Oxford.

DUNCAN MCCALL, Esq.,
M. P. P. for Norfolk.

REUBEN WHITE, Esq.,
M. P. P. for Hastings.

FRANCIS L. WALSH, Esq.,
M. P. P. for Norfolk.

JAMES ATKINSON, Esq.,
M. P. P. for Frontenac.

CAPTAIN MATTHEWS,
M.P.P. for Middlesex,
Nom. for P.

Mr. Atty. Genl. ROBINSON,
M. P. P. for York,
Nom. for S. M.

Petitioner.—FRANÇOIS BABY, Esq., a Candidate.

IN this case, the number of votes polled for each Candidate was equal, and no Return made.

The Petitioner prays for a new Writ.

In striking the Committee, the Returning Officer was admitted as a party, and, as such, allowed to make choice of a Member of the House, as his nominee on the Committee.

The Poll Book having been proved, an equal number of votes appeared as polled for each of the Candidates, Mr. Baby and Mr. Little.

A new Writ was ordered.

CASE II.

COUNTY OF NORTHUMBERLAND, 1825.

Committee.

JOHN BEVERLY ROBINSON, Esquire, M. P. P. for York,
(*Chairman.*)

CHARLES JONES, Esq.,
M. P. P. for Leeds.

ALEXR. McDONELL, Esq.,
M. P. P. for Glengarry.

P. VANKOUGHNET, Esq.,
M. P. P. for Stormont.

WILLIAM MORRIS, Esq.,
M. P. P. for Lanark.

THOMAS HORNER, Esq.,
M. P. P. for Oxford.

RICHARD BEASLEY, Esq.,
M. P. P. for Halton.

GEORGE HAMILTON, Esq.,
M. P. P. for Wentworth.

FRANCIS L. WALSH, Esq.,
M. P. P. for Norfolk.

HAMILTON WALKER, Esq.,
M. P. P. for Grenville,
Nom. for P.

ARCHIBALD MCLEAN, Esq.,
M. P. P. for Stormont,
Nom. for S. M.

Petitioners:—Electors in the interest of BENJ. EWING, Esq.

Sitting Member:—JAMES LYONS, Esq.

THIS is a case of Scrutiny.

In the course of the trial, the Committee decided,

That the admission of a voter, subsequent to the Election,
cannot be received to disqualify his vote. And,

That a Returning Officer has, in this Province, a right to
grant a Scrutiny.

CASE III.

COUNTY OF DURHAM, 1825.

Committee.

MARSHALL SPRING BIDWELL, Esquire, M. P. P. for Lennox
and Addington, (*Chairman.*)

JAMES GORDON, Esq.,
M. P. P. for Kent.

EDWARD MCBRIDE, Esq.,
M. P. P. for Niagara.

CHARLES INGERSOLL, Esq.,
M. P. P. for Oxford.

JOHN CLARK, Esq.,
M. P. P. for Lincoln.

ALEX. WILKINSON, Esq.,
M. P. P. for Essex.

PAUL PETERSON, Esq.,
M. P. P. for Prince Edward.

WM. SCOLLUCK, Esq.,
M. P. P. for Halton.

PETER PERRY, Esq.,
M. P. P. for Lennox & Ad-
dington.

JOHN ROLPH, Esq.,
M. P. P. for Middlesex,
Nom. for P.

JONAS JONES, Esq.,
M. P. P. for Leeds,
Nom. for S. M.

Petitioners:—Electors in the interest of CHARLES FOTHER-
GILL, Esq.

Sitting Member:—GEORGE STRANGE BOULTON, Esq.

THIS case is one of Scrutiny.

The Committee, during the trial, gave the following deci-
sions:—

Resolved,—That this Committee are not bound by the
Resolutions of the House of Assembly, to refuse to hear
evidence as to votes not named in the Lists interchanged
between the parties.

Resolved,—That the Counsel for the Petitioner, and Sitting Member, having interchanged lists of objectionable votes, be confined, in the production of their evidence, to the lists of objections so interchanged, in disqualifying votes on the Poll Book.

Resolved,—That the admission of a voter, as far as it may go to disqualify such vote, may be received in evidence.

The Scrutiny of the votes was proceeded in, and after it was finally concluded,

The Counsel for the parties:—Doctor BALDWIN, for the Petitioner, and JAMES B. MACAULAY, Esq., for the Sitting Member, laid before the Committee a statement signed by them, admitting the Sitting Member Mr. BOULTON, and the opposing Candidate Mr. FOTHERGILL, to have an equal number of legal votes.

The Election was declared void, and a new Writ ordered.

CASE IV.

COUNTY OF GLENGARRY, 1825.

Committee.

JAMES GORDON, Esq., M. P. P. for Kent, (*Chairman.*)

THOMAS COLEMAN, Esq.,
M. P. P. for Hastings.

ALEX. WILKINSON, Esq.,
M. P. P. for Essex.

JAMES ATKINSON, Esq.,
M. P. P. for Frontenac.

JOHN J. LEFFERTY, Esq.,
M. P. P. for Lincoln.

ZACKEUS BURNHAM, Esq.,
M. P. P. for Northumberland.

RICHARD BEASLEY, Esq.,
M. P. P. for Halton.

REUBEN WHITE, Esq.,
M. P. P. for Hastings.

WM. SCOLICK, Esq.,
M. P. P. for Halton.

GEORGE HAMILTON, Esq.,
M. P. P. for Wentworth,
Nom. for P.

Mr. Atty. Genl. ROBINSON,
M. P. P. for York,
Nom. for S. M.

Petitioner and Candidate :—ALEXANDER McMARTIN, Esq.

Sitting Member :—DUNCAN CAMERON, Esq.

THIS is a case in which the Returning Officer, after the Election, and before the Return, instituted a Scrutiny, and struck from the Poll a number of votes.

The case was argued by the Solicitor General, HENRY JOHN BOULTON, Esq. for the Petitioner, and for the Sitting Member, by CHRISTOPHER A. HAGERMAN, Esq.

After proof of the allegations in the Petition, the Committee

Resolved,—"That the conduct of the Returning Officer, in receiving votes upon the Poll, and subsequently ordering them to be struck off, was illegal and improper; and report-

ed to the House that, in their opinion, this conduct only arose from misconception on the part of the Returning Officer, as to the proper line of his duty, and that there is no ground to impute to him a corrupt motive."

The Election was declared void.

CASE V.

TOWN OF YORK, 1829.

Committee.

AMBROSE BLACKLOCK, Esq., M. P. P. for Stormont,
(*Chairman.*)

WILLIAM BUELL, Esq.,
M. P. P. for Leeds.

BENJAMIN EWING, Esq.,
M. P. P. for Northumberland.

JOHN KILBORN, Esq.,
M. P. P. for Leeds.

JOSEPH N. LOCKWOOD, Esq.,
M. P. P. for Hastings.

DUNCAN MCCALL, Esq.,
M. P. P. for Norfolk.

DONALD McDONALD, Esq.,
M.P.P. for Prescott and Russell.

WILLIAM TERRY, Esq.,
M. P. P. for Lincoln.

WILLIAM WOODRUFF, Esq.,
M. P. P. for Lincoln.

JOHN ROLPH, Esq.,
M. P. P. for Middlesex,
Nom. for P.

ARCHIBALD MCLEAN, Esq.,
M. P. P. for Stormont,
Nom. for S. M.

Petitioner and Candidate :—THOMAS DAVID MORRISON, Esq.

Sitting Member :—JOHN BEVERLEY ROBINSON, Esq.

THE Committee in this case reported to the House the following :—

Resolved,—That in the opinion of this Committee :—The Members of the Legislative Council have not a legal, or constitutional right, to vote at, or interfere with Elections.

CASE VI.

COUNTY OF PRINCE EDWARD, 1831.

28th January.

Committee.

HUGH C. THOMSON, Esq., M. P. P. for Frontenac,
(*Chairman.*)

WILLIAM CHISHOLM, Esq.,
M.P.P. for Halton.

JOHN CLARK, Esq., M.P.P.
for Lincoln.

REUBEN WHITE, Esq.,
M.P.P. for Hastings.

J. BAPTISTE MAÇON, Esq.,
M.P.P. for Essex.

GEORGE S. BOULTON, Esq.,
M.P.P. for Durham.

MARSHALL S. BIDWELL, Esq.,
M.P.P. for Lennox and Addington,
Nom. for P.

WILLIAM BERCZY, Esq.,
M.P.P. for Kent.

C. A. HAGERMAN, Esq.,
M.P.P. for Kingston,
Nom. for S.M.

ROSWELL MOUNT, Esq.,
M.P.P. for Middlesex.

JOHN PHILIP ROBLIN, Esq.,
M.P.P. for Prince Edward.

Petitioner and Candidate :—PAUL PETERSON, Esq.

Sitting Member :—ASA WERDEN, Esq.

THE Committee decided in this Case, that no Scrutiny of Votes can be made by a Returning Officer, after the expiration of six days, from the commencement of any Election. This being proved, the Election was declared void. Scrutiny by R. O.

NOTE.—It must be remembered, that by the Law of Elections at that date, Six Days were allowed for taking the Votes.

CASE VII.

29th January.

COUNTY OF HALDIMAND, 1831.

Committee.

MAHLON BURWELL, Esq., M.P.P. for Middlesex,
(Chairman.)

WILLIAM B. ROBINSON, Esq., M.P.P. for Simcoe.	WILLIAM ELLIOTT, Esq., M.P.P. for Essex.
P. VAN KOUGHNETT, Esq., M.P.P. for Stormont.	ALEX. McDONELL, Esq., M.P.P. for Northumberland.
JOHN WILLSON, Esq., M.P.P. for Wentworth.	JAMES H. SAMSON, Esq., M.P.P. for Hastings, Nom. for P.
JOHN BOWER LEWIS, Esq., M.P.P. for Carlton.	Mr. Atty. Genl. BOULTON, M.P.P. for Niagara, Nom. for S.M.
ALEX. McMARTIN, Esq., M.P.P. for Glengarry.	
EDWARD JESSUP, Esq., M.P.P. for Grenville.	

Petitioner and Candidate:—JOHN WARREN, Esq.

Sitting Member:—JOHN BRANT, Esq.

Indian
Titles.

THE principal ground of contest in this Case, was, that many Votes were recorded for Mr. Brant, upon Indian Titles,—or on Indian Lands held by Leases for 999 years.

The Committee, after deliberation, decided that such Titles were inadequate to give to the holders a right to vote, and upon investigation, ascertained a number of such Votes had been recorded for Mr. Brant, the Sitting

Member, sufficient to give to Mr. Warren the Majority of Case VII.
Legal Votes, and thereupon

"*Resolved*,—That John Brant, Esq., is not duly Elected to serve as a Member, to represent the County of Haldimand, in this present Parliament."

"*Resolved*,—That John Warren, Esq., is duly Elected a Member to serve in this present Parliament."

CASE VIII.

TOWN OF BROCKVILLE, 1831.

2nd February.

(Committee.)

JOHN WILLSON, Esquire, M.P. P. for Wentworth,
(Chairman.)

JOHN CLARK, Esq., M.P.P.
for Lincoln.

CHALES DUNCOMBE, Esq.,
M.P.P. for Oxford.

HUGH C. THOMSON, Esq.,
M.P.P. for Frontenac.

WILLIAM MORRIS, Esq.,
M.P.P. for Lanark.

ROSWELL MOUNT, Esq.,
M.P.P. for Middlesex.

PETER PERRY, Esq., M.P.P.
for Lennox and Addington,
Nom. for P.

JAMES CROOKS, Esq., M.P.P.
for Halton.

Mr. Atty. Genl. BOULTON,
M.P.P. for Niagara,
Nom. for S.M.

JOHN WARREN, Esq., M.P.P.
for Haldimand.

ALEX. McDONELL, Esq.,
M.P.P. for Northumberland.

Petitioner :—JAMES GRAY, Esq., a Candidate.

Sitting Member :—HENRY JONES, Esq.

THE Petitioner prays, that a Commission may issue, to Scrutiny take evidence in the Case, and Alleges, that he is the legally

Case VIII.

Elected Candidate ; and should have been Returned in lieu of the Sitting Member for the Town of Brockville.

Final Report.

The Committee recommended the issuing of a Commission, which being done, and having returned, and the Evidence being received, the following Resolutions were passed in reference to this Case :—

Resolved,—"That the Poll Book taken at any Election, is the best Evidence of the facts therein stated ; and thnt the same not being produced before any Committee appointed to try any Election, nor the absence thereof, in any manner accounted for. No Secondary Evidence can be admitted to supply such deficiency."

Resolved,—"That James Gray, Esq., the Petitioner, having given no Evidence to account for the absence of the Poll Book, and not having put the same in Evidence, he has failed in giving the best evidence which the nature of the Case admitted of, that he was a Candidate at the last Election for the Town of Brockville."

Election good.

Resolved,—"That the Petitioner, James Gray, Esq., has failed to prove the Allegations set forth in his Petition, and that the Election and Return of Henry Jones, Esq., the Sitting Member, does not appear to this Committee, to be invalidated by any Testimony produced on the part of the Petitioner, James Gray, Esq."

Resolved,—"That in the opinion of this Committee, leave should be granted to the Petitioner, to question by Petition, the Election of the Sitting Member, within Fourteen Days after the commencement of the ensuing Session, provided the Petitioner shall first pay all the necessary Expenses which the Sitting Member may have been subjected to, in consequence of the said Petitioner."

Raeolved,—"That neither the Petition, nor the Defence by the Sitting Member, are Frivolous or Vexations."

CASE IX.

COUNTY OF CARLETON, 1832.

Petitioners :—Electors in the interest of GEORGE LYON, Esq.

Sitting Member :—HAMNETT PINHEYT, Esq.

THIS Case was tried at the Bar of the House :—the Law providing for the trial of Controverted Elections by Committees, having expired.

The Petition in this Case, complained of Mr. Pinhey's ^{Location} Election, solely on the ground, that his Majority was ob- ^{Tickets.} tained by votes on Location Tickets.

The following Decision was given by the House :—

Resolved,—"That the Counsel at the Bar be directed not to argue the question of the inadmissability of Votes which depend merely on Location Tickets.

The Election of Mr. Pinhey was declared Void, and Mr. ^{Election} Lyon declared duly elected. ^{void.}

CASE X.

COUNTY OF LANARK, 1832.

Petitioners :—Electors.

Sitting Member :—DONALD FRAZER, Esq.

THIS Case was also tried at the Bar of the House.

The only Ground of complaint against the Return of the Sitting Member, was a want of Property Qualification.

Qualifica-
tion of
Member.

A Decision was given in this Case by the House on the sufficiency of a Location Ticket title for the Qualification of a Member.

Location
Ticket.

It was proved in Evidence, that Mr. Frazer held, at the time of the Election, under Patent, 200 acres, and under Location Ticket, 300 acres of land ; the Patent for the latter had issued on the 5th of November, being after the commencement of the then present Session.

The House

Election
void.

Resolved,—"That the Possession of Land under a Location Ticket does not entitle the holder to Vote at Elections ; —That Donald Frazer, Esq., not being, at the time of the last Election, possessed of a Freehold Estate of the Assessed value of £80, was Ineligible to a seat in this House."

A new Writ was ordered.

CASE XI.

CITY OF TORONTO, 1835.

Committee.

GEORGE RYKERT, Esquire, M. P. P. for Lincoln,
(Chairman.)

NATHAN CORNWALL, Esq.,
M.P.P. for Kent.

ELIAS MOORE, Esq., M.P.P.
for Middlesex.

JOHN STRANGE, Esq., M.P.P.
for Frontenac.

ALEX. CHISHOLM, Esq.,
M.P.P. for Glengarry.

JACOB SHIBLEY, Esq., M.P.P.
for Frontenac.

DAVID DUNCOMBE, Esq.,
M.P.P. for Norfolk.

JOHN A. WILKINSON, Esq.,
M.P.P. for Essex.

DENIS WOLVERTON, Esq.,
M.P.P. for Lincoln.

HIRAM NORTON, Esq.,
M.P.P. for Grenville,
Nom. for S.M.

ARCHIBALD MCLEAN, Esq.,
M.P.P. for Cornwall.
Nom. for P.

Petitioner and Candidate:—WILLIAM BOTSFORD JARVIS, Esq.

Sitting Member:—JAMES EDWARD SMALL, Esq.

THE Committee in this Case, made a Special Report to the House, setting forth:—

“That the Sitting Member objects to enter into a scrutiny, on the ground that the Petitioner was disqualified at the time of the Election, by being Sheriff of the District in which Toronto is situate; and desiring the opinion of the House thereon.”

Opinion of
the House.

Whereupon the House passed the following:—

Resolved,—“That this House cannot pronounce any opinion, or give any direction to the Committee appointed to try the matter of a Controverted Election, touching any matters referred to them.”

CASE XII.

COUNTY OF LEEDS.

The Committee was Ballotted, 2nd February, 1835.

CHARLES DUNCOMBE, Esquire, M.P.P. for Oxford,
(Chairman.)

EDWARD MALLOCH, Esq., M.P.P. for Carleton.	GILBERT McMICKING, Esq., M.P.P. for Lincoln.
HENRY W. YAGER, Esq., M.P.P. for Hastings.	JAMES DURAND, Esq., M.P.P. for Halton.
WILLIAM BRUCE, Esq., M.P.P. for Stormont.	PETER PERRY, Esq., M.P.P. for Lennox and Addington, Nom. for P.
THOMAS PARKE, Esq., M.P.P. for Middlesex.	WILLIAM MORRIS, Esq., M.P.P. for Lanark, Nom. for S.M.
HARMANNUS SMITH, Esq., M.P.P. for Wentworth.	
JOHN GILCHRIST, Esq., M.P.P. for Northumberland.	

Petitioners :—Electors in the interest of WILLIAM BUELL
and MATTHEW M. HOWARD, Esquires, Candidates.

Sitting Members :—OGLE ROBERT GOWAN, and ROBERT
SYMPSON JAMESON, Esquires.

Riot and
Violence.

THE Petitioners complain of Riot and Violence at the Election, and Allege, that, in consequence of which, the Electors were prevented from exercising their Franchise; and that the same was encouraged and promoted by the Sitting Members.

The Committee in this case, reported to the House, the Case XII.
following Resolutions :—

1st. Resolved,—That it is the opinion of this Committee, that at the late Election for the County of Leeds, insult, interference, riot, force and violence were used to so great an extent as to interfere with and prevent the freedom of Election, and that the excitement had so increased by the morning of the fourth day of the said Election that it appears to the Committee to have been conceived by the Returning Officer and Civil Authorities on the ground, to be beyond their control, and that the supporters of Messrs. William Buell and Matthew M. Howard, Esquires, candidates at the said Election, were deterred and prevented from exercising the Elective Franchise in peace and safety, and voting at the said Election.

2nd. Resolved,—That the Election and return of Ogle R. Gowan, Esq., and Robert S. Jameson, Esq., returned to serve as Representatives for the County of Leeds at the late Election, is illegal and void, and that a new writ do issue for the return of two Members for the said County.

3rd. Resolved,—That it is the opinion of this Committee, that a vast deal, if not all of the said interference, violence and riot, might have been prevented, had the Returning Officer and the Magistrates upon the ground, exercised their lawful authority in a proper and prompt manner at the first commencement and appearance of the same, but unfortunately it appears that an unhappy and mistaken view relative to their several authorities or jurisdiction existed among them ; the Returning Officer conceiving that his jurisdiction or authority did not extend beyond the limits of the hustings, and on the other hand the said Justices entertained an opinion that they had no authority as Justices of the Peace to inter-

Case XII. fere in any way to keep the peace in the immediate vicinity of the hustings, without being directed so to do by the said Returning Officer. And we are of opinion that these mistaken views were kept alive and continued by reason of one of the Candidates, viz : Robert S. Jameson, Esq., His Majesty's Attorney General, declining to give any legal opinion on the matter, alleging that he was there as a Candidate and not as Attorney General, and claiming to be considered in no other point of view.

Returning
Officer not
partial.

4th. Resolved,—That while the Committee are willing to acquit the Returning Officer of acting illegally or partially from corrupt motives, yet they feel themselves called upon to express their surprise, that he should have continued to keep the poll open and receive votes on Thursday, the fourth day of the Election, in as much as it appears that it was his opinion as well as that of the Justices of the Peace, that the civil authority, at that time, was not sufficient to restore and maintain peace and order, and secure the freedom of the Election, and that it would have been unsafe for the supporters of Messrs. Buell and Howard to attempt to give in their votes.

5th. Resolved,—That the Petition of John Booth and others, complaining of the undue Election and Return of Ogle R. Gowan, Esq., and Robert S. Jameson, Esq., Members for the County of Leeds, is not frivolous or vexatious.

6th. Resolved,—That it is the opinion of this Committee that under all the circumstances of the case, the defence of Ogle R. Gowan, Esq., and Robert S. Jameson, Esq., the Sitting Members, was frivolous and vexatious.

Jurisdiction of
Returning Of-
ficer.

7th. Resolved,—That in the opinion of the Committee, the authority or jurisdiction of a Returning Officer appointed to hold an Election for a Return of a Member or Members

to serve in Parliament in this Province, extends to any Case XII.
compass within which, improper interference, disturbance,
violence or riot, would tend to disturb or interrupt the free-
dom of Elections, and that it is also the duty of the Justices
of the Peace and other Peace Officers present, so far to
interfere, even within the said compass as to check and put
a stop to any breach of the peace.

8th. *Resolved*,—That in the opinion of this Committee, ^{Special}
from the great number of Electors in the County of Leeds, ^{Act.}
it is impossible for all conveniently to poll their votes, with-
in the time prescribed by law for holding the Elections, and
therefore recommend the immediate passage of an Act ex-
tending the time for holding Elections in the said County, in
order that all the Electors may have an opportunity to ex-
ercise their elective franchise at future Elections.

The House adopted the recommendation of the Commit-
tee, and forthwith passed a Bill to extend the time for
holding the Elections for that County.

CASE XIII.

COUNTY OF CARLETON, 1835.

The Committee was balloted on 23rd February, 1835.

Committee.

JOHN PHILIP ROBLIN, Esquire, M. P. P. for Prince
Edward, (*Chairman.*)

JACOB RYMAL, Esq., M. P. P.
for Wentworth.

THOMAS MCKAY, Esq.,
M. P. P. for Russell.

JOHN COOK, Esq., M. P. P.
for Dundas.

THOMAS D. MORRISON, Esq.,
M. P. P. for York.

WILLIAM MCCRAE, Esq.,
M. P. P. for Kent.

CHARLES DUNCOMBE, Esq.,
M. P. P. for Oxford,
Nom. for P.

HENRY W. YAGER, Esq.,
M. P. P. for Hastings.

ROBERT ALWAY, Esq., M.P.P.
for Oxford.

WILLIAM MORRIS, Esq.,
M. P. P. for Lanark,
Nom. for S. M.

PETER SHAVER, Esq., M.P.P.
for Dundas.

Petitioner and Candidate :—JAMES JOHNSTON, Esq.

Sitting Members :—EDWARD MALLOCH and WILLIAM
BOWER LEWIS, Esqrs.

Time of
closing
Poll.

THE Petition complains of the conduct of the Returning Officer, in closing the poll before the expiration of the time allowed by law, and prays for a new Writ to issue.

The Committee upon the case, after adjourning from day to day till 17th March, finally reported the following final Resolutions :—

Resolved,—That the Committee appointed to try the merits of the return of J. B. Lewis and Edward Malloch, Esquires, Sitting Members for the County of Carleton, have, from time to time, postponed the trial, in order to afford the Petitioner, Mr. Johnson, an opportunity of substantiating the allegations contained in his Petition, and although a period of more than two months has thus been extended to him, he has not thought proper to bring a single witness before the Committee, or take any other steps, either to prosecute the complaint contained in his Petition, or give reasons for not having done so, thereby treating the Committee, as well as Your Honourable House, with great disrespect. Case XIII.

Resolved,—That the Election and Return of John B. Lewis and Edward Malloch, Esquires, to serve in this present Parliament for the County of Carleton, are good and valid, and that their defence is not frivolous or vexatious. Election good.

Resolved,—That it appears to this Committee that the Petition of James Johnston, complaining of the undue Election and Return of John B. Lewis and Edward Malloch, Esquires, is frivolous and vexatious. Petition frivolous.

CASE XIV.

COUNTY OF LINCOLN, 1835.

(Case of a Double Return.)

Petitioners :—Electors, and DAVID THORBURN, Esq.

Candidates :—DAVID THORBURN, and JOHN JOHNSON LEFFERTY, Esquires.

Committee
of Privi-
lege.

THE House referred this matter to a Select Committee of Privilege, who reported as their opinion that a Petition complaining of a Double Return, should be tried under the Act for the Trial of Controverted Elections.

This opinion being adopted by the House, a Committee was struck for the trial of the case.

At the time of striking the Committee, Mr. LEFFERTY did not appear.

Committee
struck.

The House ordered,—That an additional name be drawn from the Ballot Box in the place of a Nominee for Mr. LEFFERTY—and that the Clerk of the House do act in his (Mr. LEFFERTY'S) stead, as a party, to alternately strike from the list of names, until such list is reduced to the number required by the Statute, to form the Committee for trying the Petitions.

Mr. Thor-
burn seat-
ed.

The Committee proceeded to the trial of this case, and having decided, that at the time the last vote was given to MR. LEFFERTY, (making the Candidates equal,) it was after the hour of midnight on the last day allowed by Law for taking the votes at an Election; whereupon

MR. THORBURN was declared duly elected.

CASE XV.

COUNTY OF GRENVILLE, 1836-7.

Sitting Members :—HIRAM NORTON and WILLIAM B. WELLS, Esquires.

Opposing Candidates :—HENRY BURRITT and ALPHEUS JONES, Esquires.

IN this case, the Clerk of the Crown in Chancery laid before the House the following papers, which were transmitted to him with the Writ and Return, by John L. Read, Esquire, the Returning Officer. Papers transmitted by Returning Officer.

“BROCKVILLE, 1st July, 1836.

“SIR,—Agreeably to the instructions of His Excellency the Lieutenant Governor, I herewith return to you the Writ of Election for the County of Grenville, and the Indenture, duly executed, by which it will appear that Hiram Norton and William B. Wells are returned as Members for the said County; as also a Protest against the said Return, made by Ephraim Jones Hubble, Ziba M. Phillips, and David Mair; an affidavit also made by Peter Cornish, the Poll Clerk, appointed by me, shewing that the Poll Book was destroyed by persons unknown, in a riotous manner.

“I have the honor to be, Sir,

“Your obedient Servant,

“JOHN L. READ.

“To SAMUEL P. JARVIS, Esquire,
Clerk of the Crown in Chancery.
City of Toronto.”

Case XV. "N. B.—The state of the Poll at the close was as follows :—

For Henry Burritt,.....	391
" Alpheus Jones,.....	395
" William B. Wells,.....	459
" Hiram Norton,.....	458

Protest. "We, Ephriam Jones Hubble, Ziba M. Phillips, and David Mair, Freeholders of the County of Grenville, in the District of Johnstown, hereby solemnly Protest against the Return, at the present Election, of any Candidate or Candidates, other than Alpheus Jones and Henry Burritt, Esquires, as Representatives for the said County of Grenville, in the next Provincial Parliament.

"For, that when the supporters of Alpheus Jones and Henry Burritt, Esquires, attempted to go forward to the place of voting, they have been crowded, pushed, beaten, and pulled back, insulted and abused, by the Special Constables, sworn in, on the occasion, to keep peace and order.

"For, that a system of intimidation has been pursued at the Hustings during the time of polling the votes, and before, by the same Special Constables; destructive of the freedom of Election.

"For, that riots and violence occurred at such Election, caused by the same Special Constables, by which the friends of Alpheus Jones and Henry Burritt, Esquires, were prevented coming forward to vote.

"For, that the Return made by John L. Read, the Returning Officer for the said County of Grenville, is not made from the original Poll Book, as required by the Statute in that case made and provided.

"And for divers other causes not herein specified, all

which have been instrumental in destroying the freedom of Case XV.
Election.

"Done at Merrickville, in the County of Grenville, the
thirty-first day of June, one thousand eight hundred and
thirty-six.

EPHRAIM JONES HUBBELL,	(L.S.)
ZIBA M. PHILLIPS,	(L.S.)
DAVID MAIR.	(L.S.)

"To JOHN L. READ, Esquire,

"Returning Officer for the County of Grenville.

"DISTRICT OF JOHNSTOWN, }

to wit :

} "PETER CORNISH, of the Protest of
Poll Clerk.

Village of Merrickville, in the District aforesaid, Gentleman,
personally appeared before me, Barsil R. Church, Esquire,
one of His Majesty's Justices of the Peace of said Dis-
trict, and deposeth on oath, and saith that he, this deponent,
on Friday, the first day of July, instant, at the hour of three
of the clock, or thereabout, was proceeding from his lodg-
ings to the hustings, (the Poll having been adjourned to
that time,) in the capacity of Poll Clerk for the Election of
the County of Grenville held in the village aforesaid, and
carrying the Poll Book.—This deponent further deposeth,
that as he was approaching towards, and was within about
fifteen or twenty feet of the hustings aforesaid, the Poll
Book, together with some other documents contained therein,
were wrested from him, this deponent, by a man unknown
to him the said deponent. This deponent further deposeth,
that as he was in the act of attempting to rescue the Poll
Book he was pushed away by another man, who joined
the one who took the Poll Book from deponent, and assisted
in breaking it to pieces. Deponent further deposeth, that

Case XV. he did succeed in rescuing one of the documents, viz., the list of qualification oaths, which was the second time wrested from him, and torn to pieces also. Further this deponent saith not.

"PETER CORNISH.

"Sworn before me, at Merrickville, }
 This 6th day of July, 1836. }
 B. R. CHURCH, J. P." }

It was moved in the House, to refer the above papers to a Committee of Privilege.

House re-
fuses to
proceed.

An amendment was proposed and carried, "That the House deem it inexpedient to proceed any further thereon, in the absence of any Petition complaining of the Election."

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CASE XVI.

COUNTY OF YORK, 1836-7.

Petitioner :—WILLIAM LYON MACKENZIE, Esq.*Sitting Member* :—EDWARD W. THOMSON, Esq.

THE fourteen days allowed by a Rule of the House for receiving a Petition against a Return, having expired, ^{Time expired.} MR. MACKENZIE petitioned to be allowed one week longer to send in a Petition.

The House, for special reasons shewn, granted this Petition; and received his Petition against the Election of MR. THOMSON.

The time for entering into Recognizance in this case, having expired, the order for taking the Petition into consideration, was discharged.

MR. MACKENZIE petitioned the House that the time might be enlarged.

The House *Resolved*,—That it would not depart from its Decision. Rule in this case, nor consider any Petition complaining of the Election.

CASE XVII.

TOWN OF NIAGARA, 1836-7.

Petitioner :—EDWARD CLARKE CAMPBELL, Esq.

Sitting Member :—CHARLES RICHARDSON, Esq.

Time ex-
pired.

THE order of the House for the consideration of the Petition in this case was discharged, in consequence of MR. CAMPBELL not entering into the required recognizance within the time prescribed by the Statute.

A Petition was presented from Electors, praying that further time be allowed MR. CAMPBELL to provide the necessary securities.

Decision.

The House refused to depart from the Rule, or to consider any Petition against the Sitting Member for this Town.

-7.

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ON, Esq.

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CASES

SUBSEQUENT TO THE UNION OF THE
PROVINCES IN 1841.



CASE XVIII.

COUNTY OF HURON.

The Committee was Ballotted on the 5th July, 1841.

ROBERT CHRISTIE, Esq., M. P. P. for Gaspé, (*Chairman.*)

CAPT. ELMES STEELE, M.P.P.
for Simcoe.

JEAN M. RAYMOND, Esq.,
M. P. P. for Leinster.

JOHN NEILSON, Esq., M.P.P.
for Quebec.

JAMES MORRIS, Esq., M.P.P.
for Leeds.

COLIN ROBERTSON, Esq.,
M. P. P. for Two Mountains.

JOHN MOORE, Esq., M. P. P.
for Sherbrooke.

DAVID BURNET, Esq., M.P.P.
for Quebec.

JOHN PRINCE, Esq., M. P. P.
for Essex.—Nom. for P.

BENJAMIN HOLMES, Esq.,
M. P. P. for Montreal.

HENRY SHERWOOD, Esq.,
M. P. P. for Toronto.—Nom.
for S. M.

*Petitioner and Candidate :—*WILLIAM DUNLOP, Esq.

*Sitting Member :—*Captain JAMES MCGILL STRACHAN.

*Counsel for Petitioner :—*LUKE BROUGH, Esq.

*Counsel for Sitting Member :—*JOHN HILLYARD CAMERON,
and ROBERT EASTON BURNS, Esqrs.

Scrutiny. **T**HIS is a case where the Petitioner prays for the seat,
solely on the ground, of having a majority of legal votes on
the Poll Book.

Case XVIII. MR. CAMERON, for the Sitting Member; objected to the formation of the Committee, on the ground, that the Hon. Mr. Viger, having refused to serve thereon when drawn, (being over 60 years of age,) and his refusal having been accepted, he was excused without requiring from him the oath prescribed in the Statute.

Mr. BROUGH, for the Petitioner, was heard in reply.

After deliberation, the Committee over-ruled the objection, being of opinion, it ought to have been made in the House at the time of striking the Committee.

20th August.

Incapacity
of Petition-
er to sit.

MR. BURNS, for the Sitting Member, made an objection to further proceedings, on the ground of the incapability of the Petitioner to sit on the present Election, from the official misconduct of the Returning Officer in not receiving certain votes for the Sitting Member, in consequence of their not having been in possession of their deeds twelve months—(this being in evidence before the Committee).

This objection was overruled.

The scrutiny was then proceeded in, and after being finally concluded, the Committee came to the following Resolutions, which were reported to the House:

Final deci-
sion.

Resolved,—That Captain STRACHAN was not duly Elected.

Resolved,—That WILLIAM DUNLOP, Esq., has a majority of legal votes, and ought to have been returned at the last Election for the County of Huron.

Resolved,—That neither the Petition nor the Opposition to it, were frivolous or vexatious.

CASE XIX.

COUNTIES OF LENNOX AND ADDINGTON.

The Committee was ballotted 1st July, 1841.

THOMAS CUSHING AYLWIN, Esq., M.P.P. for Port Neuf,
(Chairman.)

SAMUEL CRANE, Esq.,
M.P.P. for Grenville.

ETIENNE P. TACHÉ, Esq.,
M.P.P. for L'Islet.

THOMAS BOUTILLIER, Esq.,
M.P.P. for St. Hyacinthe.

AMABLE BERTHELOT, Esq.,
M.P.P. for Kamouraska.

JOHN P. ROBLIN, Esq.,
M.P.P. for Prince Edward.

The HON. DOMINICK DALY,
M.P.P. for Megantic.

JEAN BTE. NOËL, Esq.,
M.P.P. for Lotbinière.

MARCUS CHILD, Esq., M.P.P.
for Stanstead.

JAMES EDW. SMALL, Esq.,
M.P.P. for York.—Nom. for P.

The HON. WM. H. DRAPER,
M.P.P. for Russell.—Nom.
for S.M.

Petitioners.:—1. BENJAMIN HAM, Esq., a Candidate.
2. Electors.

Sitting Member.:—JOHN SOLOMON CARTWRIGHT, Esq.

Counsel for Petitioners.:—The HON. MR. BALDWIN, and
JOHN ROSS, Esq.

Counsel for Sitting Member.:—J. HILLYARD CAMERON, Esq.

Agents for Petitioners.:—MR. HAM and MR. ROBLIN.

THE Petitions allege:—That during the Election, Allan McDonell, Esq., the Returning Officer, conducted himself in an arbitrary, partial, illegal and overbearing manner towards the Electors in the interest of Mr. Ham,—That by reason

Conduct of
Returning
Officer.

Case XIX. thereof they were prevented from voting, and Mr. Ham was induced to relinquish the contest, when many votes remained unpollled,—That by reason of bribes, threats, and rewards, paid, given or offered to divers Freeholders, and Electors of the County, by John Solomon Cartwright, Esq., the Sitting Member or his Agents, they, the said Electors, were induced to vote for the said Sitting Member, and by reason of the same, the said Sitting Member is disqualified from sitting as a Member of the House.

Bribery by Sitting Member. Prayer. The prayer of each Petition is that Mr. Ham may be declared duly elected, or that the Election may be declared void and a new Writ issue.

Member acting as Counsel. Upon the organization of the Committee, a Question arose as to the propriety of the Hon. Mr. Baldwin acting as Counsel, he being a Member of the House.

Mr. Baldwin, in answer to questions by the Committee, stated that he was elected for the County of Hastings and for the Fourth Riding of York, and admitted that his Return for Hastings was petitioned against.

MR. CAMERON, Counsel for the Sitting Member was, by permission, heard upon this question.

Mr. Baldwin was called upon to reply, but declined doing so.

Decision. The Committee *Resolved*,—"That a Member of the House having this day offered himself as Counsel for the Petitioners, it is the opinion of this Committee that no Member of the House should be received and heard before them, whether as Counsel for the Sitting Member or any party petitioning against his Return."

3rd July.

Opening by Petitioners. MR. ROSS, for the Petitioners; commenced the opening of his whole Case.

MR. CAMERON, for the Sitting Member ; objected, and Case XIX.
 urged that he (the Counsel) should confine his Opening to Objection.
 the first class of charges, viz., of arbitrary, partial, illegal
 and overbearing conduct on the part of the Returning
 Officer :—produce Proof, and take Judgment on the same,
 before proceeding into other matter.

MR. ROSS was heard in reply.

The Committee decided that the Counsel for the Petition- Decision.
 ers should open his whole Case, and commence with proof
 in support of the charges against the Returning Officer.

6th July.

MR. CAMERON, for the Sitting Member ; objected to a Further
 witness as incompetent on the ground that he signed the objection
 Petition against the Return, and is therefore liable to con-
 tribute to the Expenses of the contest.

The Committee decided the Objection to be valid, and held good.
 the witness was rejected.

A Question was raised by the Counsel for the Sitting Further
 Member, whether evidence would be received on the fact of objection
 the Returning Officer administering an improper oath.

MR. ROSS, for the Petitioners, was heard.

The Committee decided that such evidence was ad- over-ruled.
 missible.

8th July.

MR. ROSS objected to a witness on the part of the Sitting Objection
 Member giving Evidence in the case of the Returning Of- by P.
 ficer, on the ground that no List of Witnesses was handed
 into the House on his (the Returning Officer's) behalf.

MR. CAMERON, for the Sitting Member ; was heard in
 reply.

The Objection was over-ruled by the Committee, as the over-ruled.
 Lists handed in on behalf of the Sitting Member, were suf-

Case XIX. ficient for the Case of the Returning Officer, the Charges against whom, formed a part of the Petition against the Return.

12th July.

MR. ROSS, for the Petitioners; closed that branch of his Case with reference to the Charges against the Returning Officer.

MR. CAMERON proceeded with Evidence in reply; and having concluded the same,

Returning
Officer's
case-

The Committee, after deliberating on the Case against the Returning Officer, came to the following Resolutions:—

Resolved,—"That the Evidence adduced in support of the Charges against the Returning Officer, is not sufficient to void the last Election and Return of the Incorporated Counties of Lennox and Addington."

Resolved,—"That although the Allegations against the conduct of the Returning Officer, contained in the Petition, are not sufficiently proved to void the Election, yet it is the opinion of this Committee, that the conduct of the said Returning Officer was highly reprehensible."

Case
against
S. M. com-
menced.
Witness
objected to.

MR. ROSS then proceeded with the Case against the Sitting Member.

A witness is called to give Evidence in this Case, who was present when Evidence was given in the Case against the Returning Officer, and on that ground, was objected to by Mr. Cameron.

The Committee over-ruled this Objection, and the witness was allowed.

After the Evidence was concluded, and the parties heard, the Committee

Final deci-
sion.

Resolved,—"That Treating on the part of the Sitting Member was proved, but that it is not, in the opinion of this

Committee, a legal ground for avoiding the Election, under Case XIX. the Laws in force in that part of this Province heretofore Upper Canada."

Resolved,—"That it does not appear to this Committee that the Sitting Member has, by himself or his authorised Agents, been guilty of Bribery."

And, "That neither the Petition nor the defence to the same is, in the opinion of the Committee, Frivolous or Vexatious."

CASE XX.

TOWN OF NIAGARA.

The Committee was ballotted 7th July, 1841.

EDWARD HALE, Esquire, M. P. P. for Sherbrooke,
(Chairman.)

CALEB HOPKINS, Esq., M.P.P. for Halton.	SOLOMON Y. CHESLEY, Esq., M.P.P. for Cornwall.
FREDK. A. QUESNEL, Esq., M.P.P. for Montmorency.	JOHN T. WILLIAMS, Esq., M.P.P. for Durham.
JOSEPH WOODS, Esq., M.P.P. for Kent.	JOHN GILCHRIST, Esq., M.P.P. for Northumberland.
ISRAEL W. POWELL, Esq., M.P.P. for Norfolk.	JAMES EDW. SMALL, Esq., M.P.P. for York.—Nom. for P.
DON. McDONALD, Esq., M.P.P. for Prescott.	DAVID THORBURN, Esq., M.P.P. for Lincoln —Nom. for S.M.

Petitioners :—Electors.

Sitting Member :—EDWARD CLARKE CAMPBELL, Esq.

Opposing Candidate :—The HON. HENRY JOHN BOULTON.

Counsel for the Petitioners :—JNO. HILLYARD CAMERON, Esq.

The Sitting Member appeared in his own behalf.

Scrutiny. **T**HIS Case is one of simple Scrutiny.

At the close of the Poll, Mr. Campbell had a majority of two over Mr. Boulton.

A Commission was issued to take the Evidence, and before its return, Mr. Campbell had vacated his Seat, by the acceptance of Office.

The following Objections were raised on the part of the Case XX.
 defence relative to irregularities in the proceedings of the Objections
 Committee, with the view of rendering them void, and so
 causing the Committee to be dissolved.

The first objection :—That the Records of the Committee
 were not full from the 20th August last.

The second :—That the Committee met on three succes-
 sive days, with less than nine Members present.

These Objections were over-ruled by the Committee, after over-ruled
 hearing Mr. Boulton.

MR. BOULTON, for the Petitioners; contended that the S. M. ac-
 cepted of-
 fice.
 Member returned, having accepted Office, and thereby
 vacated his seat, is incompetent to be heard against the
 Petition.

MR. CAMPBELL was heard in reply.

The Committee *Resolved*,—"That inasmuch as there is no Permitted
 to oppose
 Petitioner.
 evidence before the Committee, of the Member returned
 having vacated his seat, and as there is no law to the con-
 trary, Mr. Campbell, the Member returned, be permitted to
 oppose the Petition."

13th September, 1842.

It was contended on the part of the Return, that the Omission
 to appoint a
 Chairman.
 Committee is dissolved by the omission to appoint a Chair-
 man in the place of Mr. Hale, who was absent on leave,
 from the House, during a number of its Sittings.

The Committee decided, that inasmuch as no business
 was transacted at the Sittings referred to, Mr. Hale is not
 disqualified, nor the subsequent proceedings of the Com-
 mittee affected by his absence.

Again it was urged that the Committee not having met
 on the second day of the present Session, according to the
 directions of the Statute (four Members being absent on

Case XX. that day) it has become dissolved, and cannot proceed further in the Petition.

Decision. The Committee decided that the proceeding of the Committee, on the occasion referred to, was legal in every particular.

The Evidence, as taken under the Commission ordered by the House, was laid before the Committee.

The parties proceeded with the same; and having concluded, the Committee passed the following as their final Resolutions :—

Final Resolutions.

Resolved,—"That by the Scrutiny of votes before this Committee, it appears that the Honourable Henry John Boulton, the opposing Candidate at the last Election for the Town of Niagara, has a majority of legal votes on the Poll."

Resolved,—"That Edward Clarke Campbell, Esq., was not duly elected; that neither the Petition nor the Opposition to it were Frivolous or Vexatious."

Votes held bad.

In the course of this scrutiny many votes were struck from the Poll on the ground of objection, that the Dwelling Houses or Shanties erected a short time previous to the Election, did not qualify for a vote according to the true meaning of the Law, viz. :—

Upon a Dwelling House or Shanty occupied only a week or two previous to the Election, not plastered and without a chimney.

Upon a small building 12 x 18 ft. erected for the voter at the Expense of the Candidate, a week before the Election.

And upon a building 8 x 12 ft., costing £10 or £12, finished a few minutes before the vote was given.

And also, votes were held bad in this Case upon the Objection "no sufficient dwelling house," viz. :—

Upon an uninclosed Acre Lot on which is a house without foundation or chimney, only clapboarded or unfit for renting.

CASE XXI.

COUNTY OF FRONTENAC.

The Committee was Ballotted 23rd July, 1841.

AUGUSTIN NORBERT MORIN, Esquire, M. P. P. for Nicolet,
(Chairman.)

JOHN PHILIP ROBLIN, Esq.,
M. P. P. for Prince Edward.

ISAAC BUCHANAN, Esq.,
M. P. P. for Toronto.

DAVID M. ARMSTRONG, Esq.,
M. P. P. for Berthier.

A. C. TASCHEREAU, Esq.,
M. P. P. for Dorchester.

J. B. ISAIE NOËL, Esq.,
M. P. P. for Lotbinière.

The Hon. CHARLES D. DAY,
M. P. P. for Ottawa.

FRANCIS HINCKS, Esq., M.P.P.
for Oxford.

JOHN R. HAMILTON, Esq.,
M. P. P. for Bonaventure.

JAMES H. PRICE, Esq., M.P.P.
for York.

Nom. for S. M.

JAMES JOHNSTON, Esq.,
M. P. P. for Carleton.
Nom. for P.

Petitioners :—1. JAMES MATHEWSON, Esq., a Candidate.
2. Electors.

Sitting Member :—HENRY SMITH, Junior, Esq.

Counsel for Petitioners :—CHRISTOPHER ARMSTRONG, Esq.

Counsel for Sitting Member :—JOHN A. MACDONALD and
JOHN ROSS, Esquires.

THE Petitions in this Case Allege:—That gross bribery, Bribery.
threats, promises of favours and corruption, were practised
by the Sitting Member, his Agents, Committee and Support-

Case XXI. ers at the last Election for this County, and that by reason of the same, he is disqualified from being returned a Member at that Election. That the conduct of the Returning Officer was Arbitrary, Partial and Illegal, in not allowing divers Freeholders to record their votes for Mr. Mathewson ; and contrary to usage, in not allowing him the benefit of Counsel, Scrutineer or Inspector, at the Poll ; and pray that the Return may be amended by inserting the name of James Mathewson, Esq., in lieu of that of the Sitting Member.

One Petition abandoned.

In the Opening by the Counsel for the Petitioners : he expressed to the Committee his desire not to proceed upon the Petition of the Electors, but to confine himself to the charges in the Petition of James Mathewson, Esq., the opposing Candidate.

The Committee, after hearing the Counsel for the Sitting Member, granted, that the Counsel for the Petitioners might proceed upon one Petition only, the charges and allegations in both, being the same ; subject, however, to the final decision of the Committee with respect to costs.

Opening by P.

Mr. ARMSTRONG for the Petitioner, proceeded with his Opening.

Mr. MACDONALD for the Sitting Member ; objected to the general allegations of Bribery, and argued that those charges should be particularised, as against the Sitting Member.

Parties were desired to withdraw.

To proceed on specific charges.

The Committee *Resolved*, " That the Objection taken and urged by the Counsel for the Sitting Member, is good and valid, and that the Counsel for the Petitioner be directed to state specifically his charges."

Mr. ARMSTRONG proceeded accordingly and concluded.

The Committee having taken into their consideration that part of the Opening of the Counsel for the Petitioner,

in reference to the charges in the Petition, of Bribery Case XXI.
against the Sitting Member—

Resolved,—"That the fourth charge, 'That the Sitting Member had told several Electors, if small sums were wanting, they should not mind, and that they should be forthcoming,' is not sufficient to vacate the Seat of the Sitting Member, and is so vague that this Committee will not allow the Petitioner to enter into Evidence of this fact." Decision on Bribery.

Resolved,—"That the fifth charge, 'That the Sitting Member stated to Electors, during the Election, 'Drink as you like, my dear fellows,' is vague and frivolous, and that this Committee will not allow the Petitioner to enter into Evidence of the same.'" Treating.

Resolved,—"That the Committee will not allow the Petitioner to proceed to Evidence to establish Bribery by the Sitting Member's Agent, of Robert Maxwell, Patrick Murphy, Valentine Stover, Ephraim Dunham, David Foot, William Sigsworth, Elias Jackson, and William Walker, the same being vague and imperfectly set forth; and that they will admit Evidence of that fact against the Sitting Member only." Agency.

Resolved,—"That the Petitioner and his Counsel be called in and informed that he can proceed with his Evidence to establish that Spooner is the person who has been bribed by the Sitting Member, and that no other Evidence will be allowed against any other person on that specific fact."

Resolved,—"That the Petitioner be directed to enter into proof of charges against the Sitting Member, previous to entering into proof of Facts alleged against the Returning Officer."

By request of the Counsel for the Petitioner, a copy of the above Resolutions was ordered to be given him.

Case XXI. Mr. ARMSTRONG proceeded with Evidence in support of the charge of Bribery against the Sitting Member, and having concluded this branch of his Case ;

Returning Officer's case closed. The Committee directed that he should proceed with his Evidence against the Returning Officer.

Mr. ARMSTRONG informed the Committee that he had abandoned the same, and that the Case for the Petitioner was closed.

Mr. MACDONALD and Mr. ROSS ; for the Sitting Member, were then heard in reply.

After deliberation, the Committee came to the following final Resolutions :—

Final decision. *Resolved*,—"That no Evidence has been adduced against the Returning Officer in support of the charges contained in the Petition."

Resolved,—"That the Sitting Member is not disqualified to sit or vote in the Legislative Assembly, in consequence of any thing proved to have transpired during the last Election for the County of Frontenac."

Resolved,—"That it does not appear to this Committee that Henry Smith, Esq., the Sitting Member, has, by himself or his authorised Agents, been guilty of Bribery."

Resolved,—"That the Petition of James Mathewson, Esq., is not Frivolous or Vexatious."

Resolved,—"That the Petition of Matthew Rourk and others was withdrawn by the Counsel for the Petitioners before entering into Evidence upon the same."

Resolved,—"That the said Petition is Frivolous and Vexatious ; that the defence of the Sitting Member is not Frivolous or Vexatious."

CASE XXII.

SECOND RIDING OF YORK.

The Committee was Ballotted 16th August, 1841.

JOHN PHILIP ROBLIN, Esq., M.P.P. for Prince Edward,
(Chairman.)

DAVID THOMPSON, Esq.,
M.P.P. for Haldimand.

ETIENNE P. TACHÉ, Esq.,
M.P.P. for L'Islet.

MARCUS CHILD, Esq., M.P.P.
for Stanstead.

DAVID M. ARMSTRONG, Esq.,
M.P.P. for Berthier.

WILLIAM H. MERRITT, Esq.,
M.P.P. for Lincoln.

MICHEL BOURNE, Esq., M.P.P.
for Rimouski.

HENRY SMITH, Esq., M.P.P.
for Frontenac.

THOMAS PARKE, Esq., M.P.P.
for Middlesex.

FRANCIS HINCKS, Esq., M.P.P.
for Oxford.—Nom. for P.

THOS. C. AYLWIN, Esq.,
M.P.P. for Portneuf.—Nom.
for S. M.

Petitioners :—1.—CONNEL J. BALDWIN, Esq., a Candidate.
2.—Electors.

Sitting Member :—GEORGE DUGGAN, Junior, Esq.

Counsel for the Petitioners :—JOHN ROSS, Esq.

Counsel for the Sitting Member :—JOHN DUGGAN, Esq.

THE Petitioners Allege :—

That Rioting and Violence existed at the Election;—That Rioting.
the supporters of Mr. Baldwin were, by persons in the in-
terest of Mr. Duggan, the Sitting Member, assailed and

Case XXII. forcibly driven out of the Town where the Election was held, and thereby deterred from giving their votes for Mr. Baldwin ;

New Writ. And pray that the Return of Mr. Duggan may be set aside, and a new Writ ordered for the County.

2nd September.

Members
excused.

The Chairman informed the Committee that Mr. Bourne and Mr. Armstrong were excused by the House from further attendance as Members of the Committee.

A Commission was issued in this Case to take the Evidence, and not having been returned before the close of the Session, the Committee stood adjourned over the Recess.

9th September, 1842.

On this day the Committee resumed its Sittings.

Member
vacated his
seat.

The Hon. Mr. Hincks, Nominee for the Petitioners, having vacated his Seat in the House during the Recess, by the acceptance of Office ; and being now re-elected for the same County, a Question arose whether Mr. Hincks was disqualified to act as Member of the Committee.

After deliberation on the subject, the Committee unanimously agreed to refer the Question for the Opinion of the House thereon.

10th September.

The Chairman informed the Committee that the House had passed the following Resolution, in reference to the Question referred for its Opinion, at the Sitting of yesterday :

House de-
clares
Member
ineligible.

Resolved,—"That the Honourable Francis Hincks, a Member of the Select Committee appointed to try the merits of the Petitions of divers Electors of the Second Riding of the County of York, and of Connel James Baldwin, Esq., complaining of the undue Election and Return of George Duggan, Esq., the Sitting Member for the said

Riding, and the Nominee of the Petitioners against the Case XXII
Return of the said George Duggan: having vacated his
seat in this House during the Recess, has, although re-
elected for the same County, ceased to be a Member of the
said Committee, and is legally incompetent to serve on the
same, unless re-appointed."

This Resolution being adopted by the Committee, Mr.
Hincks was declared ineligible.

The Committee, by this decision, having been reduced to
less than nine members, was dissolved.

On the 15th September, 1842, another Committee was
struck for the trial of this Case.

JOHN PHILIP ROBLIN, Esq., M.P.P. for Prince Edward,
(Chairman.)

MARCUS CHILD, Esq., M.P.P.
for Stanstead.

SAMUEL CRANE, Esq., M.P.P.
for Grenville.

ANT. C. TASCHEREAU, Esq.,
M. P. P. for Dorchester.

WILLIAM H. MERRITT, Esq.,
M. P. P. for Lincoln.

HENRY SMITH, Jun., Esq.,
M. P. P. for Frontenac.

THOMAS PARKE, Esq., M.P.P.
for Middlesex.

The Hon ROBERT BALDWIN,
M. P. P. for Hastings.

GEORGE M. BOSWELL, Esq.,
M. P. P. for Northumberland.
Nom. for P.

The Hon. THOS. C. AYLWIN,
M. P. P. for Portneuf.
Nom. for S. M.

THE Evidence taken under the Commission issued during ^{Evidence}
the existence of the former Committee, was laid upon the ^{received.}
table.

The Committee determined that this Evidence was not in-
validated by the dissolution of the Committee, and was
received, (the parties consenting)

Case XXII.

Members
vacate
seats.

16th September.

The Chairman stated to the Committee that the Honourable Robert Baldwin and the Honourable Thomas C. Aylwin had vacated their seats in the House, and, consequently, were no longer members of the Committee.

After the reading of the Evidence, and the parties being heard, the Committee came to the following Resolutions:—

Final Res-
olutions.

Resolved,—"That in consequence of great violence upon the persons of several of the Electors, and intimidations held out against the supporters of the Petitioner, this Committee are of opinion that many Freeholders in the Riding were deterred from offering their votes for the Petitioner."

Resolved,—"That this Committee do, therefore, declare the Election of George Duggan, Esq., for the said Riding, to be void."

Resolved,—"That it does not appear to this Committee that the violence and intimidation mentioned in the first Resolution, were encouraged by the Sitting Member, but were discountenanced by him."

And, "That neither the Petitions nor the defence to the same were Frivolous or Vexatious."

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CASE XXIII.

COUNTY OF HALTON.

The Committee was Ballotted 19th December, 1844.

JOHN TUCKER WILLIAMS, Esq., M.P.P. for Durham,
(Chairman.)

JEAN CHABOT, Esq., M.P.P. for Quebec.	ARCHIBALD PETRIE, Esq., M.P.P. for Russell.
BENJAMIN SEYMOUR, Esq., M.P.P. for Lennox & Addington.	JACQUES P. LANTIER, Esq., M.P.P. for Vaudreuil.
GEORGE CHALMERS, Esq., M.P.P. for Halton.	JOHN MCCONNELL, Esq., M.P.P. for Stanstead.
WM. B. ROBINSON, Esq., M.P.P. for Simcoe.	JOHN PRINCE, Esq., M.P.P. for Essex.—Nom. for P.
LOUIS LACOSTE, Esq., M.P.P. for Chambly.	GEORGE DUGGAN, Jr., Esq., M.P.P. for York.—Nom. for S.M.

*Petitioner and Candidate :—*JAMES DURAND, Esq.

*Sitting Member :—*JAMES WEBSTER, Esq.

*Counsel for Petitioner :—*FRANCIS JOHNSON and WILLIAM
BUEL RICHARDS, Esquires.

*Counsel for Sitting Member :—*JOHN ROSE, Esq.

THE Petition, which was by a Candidate, Alleges:—That the Returning Officer is a Partner in business with, and an active friend and supporter of, the Sitting Member, and voted for him in the Township of Nicol.

Case XXIII.

Deputy
Returning
Officers
and Poll
Clerks.

That the Deputy Returning Officers and Poll Clerks were generally known to be opposed to the Petitioner, and that eight of these Officers and Clerks voted for the Sitting Member.

That the Deputy Returning Officer did not give notice of the time and places of taking the Polls; and acted partially and unjustly, in favour of the Sitting Member.

That the said Deputy Returning Officers admitted persons to vote for the Sitting Member not legally qualified; and also allowed persons to vote more than once at the same Election for the said Sitting Member, and refused others duly qualified, to vote for Petitioner:—whereby the Sitting Member obtained a colourable majority of eight votes.

Women
Voters.

It also stated that several of the said Deputy Returning Officers allowed divers women, to the number of seven, and persons from the Township of Amaranth (which is not within the County) to vote for the said Sitting Member.

Unneces-
sary time.

That persons in the interest of the said Sitting Member were allowed, unnecessarily and vexatiously, to occupy an unreasonable space of time in useless and trifling inquiries, obviously for no other purpose than to consume the time allowed by law for taking the Polls; and, for a like purpose, required divers illegal oaths to be administered to voters in the interest of Petitioner—

Illegal
Oaths.

And prays that the Election of Mr. Webster may be avoided, and the Petitioner declared duly Elected.

9th January.

The Chairman stated, that Mr. Robinson had vacated his seat in the House, and was therefore no longer a Member of the Committee.

The Case was then opened by Mr. Durand, who appeared

in his own behalf, and concluded one part of his Case by Case XXIII. urging the Committee to give to him the Election, on the ground of certain Women having voted, and votes being taken for Mr. Webster in the Township of Amaranth, this Township not being within the limits of the County, and which votes if struck from the Poll would leave to him (Mr. Durand) a majority on the gross Poll.

MR. ROSE, Counsel for the Sitting Member; was heard in objection, and argued, that the Committee could not take it for granted that the names sought to be expunged, were those of Women, or that the Township of Amaranth was not within the limits of the County.

MR. RICHARDS, Counsel for the Petitioner, was heard in reply.

The Committee decided against the proposition of the Petitioner, and ordered that the application be made to the House for a Commission to issue for taking the Evidence upon the whole Case.

A Commission was accordingly issued.

The Commission not having been returned before the prorogation, the Committee stood adjourned, pursuant to the Statute, to the second day of the ensuing Session.

3rd April, 1846.

On this day the Committee resumed its sittings.

The Commission, with the Evidence taken under it, was laid before the Committee by the Chairman.

MR. ROSE, for the Sitting Member; Objected to the Evidence being received, on the ground that many of the adjournments of the Commissioners, while taking the Evidence, were contrary to the directions of the Statute.

Adjournments of Commissioners.

The Committee having discovered that a Jurat was not

Jurat omitted.

Case XXIII. attached to the several Oaths taken by the Commissioners or their Clerks, prior to entering upon their duties ;

The consideration of the Objection raised by Mr. Rose was postponed ; and the effect of the above-mentioned omission, upon the subsequent proceedings of the Commissioners, was considered.

MR. ROSE, Counsel for the Sitting Member, and MR. JOHNSON, Counsel for the Petitioner ; were heard upon this point.

Decision. The Committee decided that the mere omission of the Jurat should not vitiate the proceedings, if it were proved that the Commissioners and Clerk were actually sworn in the form prescribed by the Statute ;

Commissioners to appear. And ordered, That John Ogilvie Hatt and Samuel Beasley Freeman, Esquires, two of the Commissioners, be summoned to appear before the Committee.

Counsel heard. The Chairman stated to the parties, that the Committee were ready to hear Counsel relative to the propriety of receiving testimony from the Commissioners touching the omission of the Jurat, to the oaths required to be taken by them as such Commissioners.

The Counsel on both sides being heard,
Evidence. The Committee *Resolved*,—"That John Ogilvie Hatt and Samuel Beasley Freeman, Esquires, two of the Commissioners appointed to take and receive evidence in the matter of the contested Election for the West Riding of the County of Halton, be examined under oath, before the Committee, touching their mode of proceedings under said Commission."

Messrs. Hatt and Freeman were accordingly sworn, and their Evidence taken.

The Committee being of opinion that the Evidence given

by the Commissioners, clearly proved that the Chairman Case XXIII and the other Commissioners, with their Clerk, were duly sworn according to law ;

Resolved,—"That this Committee may receive the Evidence taken under the said Commission, and proceed with the further consideration thereof." Decision.

9th April.

The Committee resumed the consideration of the objection by Mr. Rose, relative to certain alleged illegal adjournments by the Commissioners.

Mr. JOHNSON, for the Petitioner, and Mr. ROSE, for the Sitting Member, were heard.

The Committee, after long deliberation,

Resolved,—"That the evidence taken under the Commission issued in the matter of the contested Election for the West Riding of the County of Halton, cannot be received by this Committee, for the want of observance by the Commissioners of the provisions of the Statute regulating and providing for the adjournments and proceedings of the said Commissioners."

Resolved,—"That the Commissioners are guilty of neglect of their duty, for having, in the course of their proceedings, adjourned, contrary to the provisions of the law."

Resolved,—"That the Chairman report to the House the above Resolutions."

At the request of the Petitioner, the Committee then adjourned.

10th April.

Mr. DURAND, on the following morning, addressed the Committee, and stated that owing to the decision of yesterday, rejecting the Evidence taken under the Commission, Petitioner prays for costs.

Case XXIII. he reluctantly abandoned the contest ; and concluded by requesting that the Committee would, in their Report to the House, recommend, under the peculiar circumstances of his case, that his Costs under the Commission might be re-paid to him by the House.

The Committee decided that this request could not be entertained by them ;

Final decision.

And *Resolved*,—"That there is no evidence before the Committee to invalidate the Election or Return of James Webster, Esq., the Sitting Member."

And, "That neither the Petition nor the opposition to it appeared to be Frivolous or Vexatious."

The following Resolution was passed by the House in reference to the indemnification of the Petitioner in this case.

Resolved,—"That the Clerk of the House be directed to tax the Costs of James Durand, Esquire, the Petitioner in the Controverted Election for the West Riding of the County of Halton, occasioned by the proceedings of the Commissioners for the examination of witnesses, ordered by this House in that Case, and which, by the decision of the Committee appointed to try the merits of that Election, have proved nugatory, in consequence of the misconduct of the Commissioners appointed to take such Evidence ; and to pay the amount thereof, not exceeding £200, among the other Contingencies of the House."

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CASE XXIV.

THIRD RIDING OF YORK.

The Committee was Ballotted 20th December, 1844.

ETIENNE PASCHAL TACHÉ, Esq., M. P. P. for L'Islet,
(Chairman.)

JOSEPH LAURIN, Esq., M.P.P.
for Lotbinière.

GEORGE McDONELL, Esq.,
M.P.P. for Dundas.

LAWRENCE LAWREASON, Esq.,
M.P.P. for London.

ADAM H. MEYERS, Esq.,
M.P.P. for Northumberland.

WILLIAM H. SCOTT, Esq.,
M.P.P. for Two Mountains.

EDWARD HALE, Esq., M.P.P.
for Sherbrooke.

AMABLE BERTHELOT, Esq.,
M.P.P. for Kamouraska.

The Hon. JAMES SMITH,
M.P. P. for Missisquoi.

JOHN A. MACDONALD, Esq.,
M.P.P. for Kingston.—Nom. for P.

The Hon. THOS. C. AYLWIN,
M.P.P. for Quebec.—Nom. for S.M.

*Petitioners :—*Electors.

*Sitting Member :—*The Hon. JAMES EDWARD SMALL.

*Opposing Candidate :—*GEORGE MONRO, Esq.

*Counsel for Petitioners :—*JOHN ROSE, Esq.

*Agent :—*WILLIAM H. BOULTON, Esq.

The Sitting Member appeared in his own behalf.

THE Petition, which is by Electors, in the interest of Mr. Qualifica-
Monro, Alleges :—That the Declaration of Qualification put
in by Mr. Small, the Sitting Member, does not, with suffi-

Case XXIV. cient certainty, declare that the Estate on which he qualifies, is an Estate of Freehold, legal or equitable, but only alternatively ; and that such declaration is not sufficiently certain, to ground an Indictment, if untrue in any particular.

That the Estate mentioned in the declaration, is not, in any respect, worth the sum of Five Hundred Pounds, sterling, over and above incumbrances, as required by Law.

That the Sitting Member has not a majority of legal votes on the Poll Book.

Scrutiny. And prays the House to investigate the Qualification of Mr. Small, and also to cause a scrutiny of the votes to be made ; and if Mr. Small be not duly Elected, that Mr. Monro may be declared duly Elected, or that a new Writ may issue.

Opening. The Case for the Petitioners, as opened, was confined by them, to points in the Petition, touching the Qualification of the Sitting Member.

As a preliminary proceeding, it was urged on the part of the Sitting Member :—That it is incumbent on the Petitioners to prove that they were Electors, duly qualified to vote at the last Election for the Third Riding of York.

Commission. The Committee decided that such proof was not necessary. At the instance of the Petitioners, a Commission was issued to take the Evidence in the Case.

10th March, 1845.

The Commission being returned, was this day laid before the Committee, together with the Evidence taken under the same.

Evidence to be rejected. Mr. ROSE, Counsel for the Petitioners ; argued against the reception, by the Committee, of certain Evidence taken by the Commissioners, and moved the Committee to

Resolve,—"That such part of the Evidence taken under the Commission, as has for its object, or tends to prove, that the Sitting Member is, or ever was, possessed of other Real Estate, or immovable property, than that mentioned and described by him, in his Declaration of Qualification, given to, and received by the Returning Officer, be declared to be irrelevant, illegal and inadmissible, and to have been wrongly and improperly taken; and that the same be expunged from the Minutes taken by the Commissioners, and held to form a part thereof; And the Petitioners further moved the Committee, that the Sitting Member may be confined, in proof of his Qualification, to Evidence touching or relating to those Lands and Tenements alone, which are mentioned in his aforesaid Particular Qualification;" Case XXIV.

And in concluding his Case, relied solely on the ground of the insufficiency of the Declaration of Qualification of the Sitting Member; and claimed that the Election and Return of Mr. Small should be declared void, and that Mr. Monro, being the only qualified Candidate, might be seated, or that a new Writ might issue.

MR. SMALL was heard in reply.

The Room was cleared.

The Committee passed the following Resolution:

Resolved,—"That the Evidence taken by the Commissioners, of property, other than that mentioned in the Affidavit of Qualification of the Sitting Member, is irrelevant, and that the same be not taken into consideration by this Committee." Decision.

The Evidence upon the whole Case being then read,

It was moved to *Resolve*,—"That the property specified in the Qualification of the Sitting Member, is not of the value of Five Hundred pounds of sterling money of Great

Case XXIV. Britain, over and above all Charges and Incumbrances charged upon or due and payable out of, or affecting the same.

This being negatived by the Committee, it was

Resolved,—"That notwithstanding the Affidavit and Declaration of Qualification, made by the Sitting Member, are not exactly in conformity with the form prescribed by the Statute, it is not of itself sufficient to invalidate the Election and Return of the Sitting Member."

Upon the further consideration of this Case,

The following Resolution was passed :—

Final Resolution.

Resolved,—"That Mr. Small was not duly elected,—That Mr. Monro was duly elected, and ought to have been returned; and that neither the Petition nor the Opposition to it, were Frivolous or Vexatious."

Amendment.

To this Resolution, an amendment was moved, that the words, "That George Monro, Esq. was duly elected, and "ought to have been returned" be erased, and the following substituted, "That a new Writ do issue for the Election "and Return of a Member to represent the Third Riding of "the County of York."

Which was negatived; and the original Resolution was ordered to be reported to the House as the Final decision of the Committee.

CASE XXV.

NORTH RIDING OF LINCOLN.

The Committee was Ballotted 9th January, 1845.

JACQUES PHILIPPE LANTIER, Esq., M.P.P. for Vaudreuil,
(Chairman.)

The Hon. D. B. PAPINEAU,
M.P.P. for Ottawa.

JOSEPH LAURIN, Esq., M.P.P.
for Lotbinière.

The Hon. JAMES SMITH,
M.P.P. for Missisquoi.

GEORGE CHALMERS, Esq.,
M.P.P. for Halton.

JOHN MCCONNELL, Esq.,
M.P.P. for Stanstead.

ETIENNE P. TACHÉ, Esq.,
M.P.P. for L'Islet.

GEORGE McDONELL, Esq.,
M.P.P. for Dundas.

JOHN T. WILLIAMS, Esq.,
M.P.P. for Durham.

GEORGE DUGGAN, Jun., Esq.,
M.P.P. for West York.—Nom.
for P.

The Hon. ROBERT BALDWIN,
M.P.P. for North York.—Nom.
for S. M.

Petitioners :—Electors in the interest of GEORGE RYKERT,
Esquire, the opposing Candidate.

Sitting Member :—WILLIAM HAMILTON MERRITT, Esquire.

Counsel for Petitioners :—JOHN ROSE, Esquire.

MR. MERRITT appeared in his own behalf.

THE Petition alleges :—That the nomination of Candidates Petition.
at the last Election for North Lincoln took place on
22nd October, 1844. That, prior to a vote being recorded

Case XXV. on the day appointed for the Polling, a demand was made of the Deputy Returning Officer, by an Elector, at the Polling Place in the Township of Grantham, to know whether or not, the Candidates had severally made the Declaration of Qualification required by law, and did there, and then, require of William Hamilton Merritt, Esquire, to make the same; that Mr. Merritt protested against the demand so made, stating that the same should have been made on the day of Nomination, that it was then too late, and that he would not then comply with the requisition. That the proper Declaration of Qualification of the opposing Candidate, Mr. Rykert, was at the same time produced by the Returning Officer; that some of the Petitioners then objected to votes being received for Mr. Merritt, as Mr. Rykert was the only legally qualified Candidate. That Mr. Merritt is an Officer of the Board of Works, and was such at the time of the Election, and thereby was disqualified from being Elected. And pray that the seat of the Sitting Member may be vacated, and George Rykert, Esq., declared duly elected.

10th January.

**Objection
to Commit-
tee.**

As a preliminary objection, Mr. Merritt protested against the legality of the Committee, on the ground, that eight of its Members were serving on other Contested Election Committees, which was, in his judgment, contrary to the spirit and intention of the Act 4th Geo. IV. ch. 4—against all former precedent, and the practice of the Imperial Parliament, as recorded in the cases of Morpeth and Shrewsbury Elections, Commons' Journals, vol. 35, pages 74 and 175; as also in the case of the Stirling Election, vol. 63, page 207.

No further notice was taken of this Protest, except that Case XXV. it was ordered to be appended to the Minutes of the Committee. It must be supposed, however, that the objection was over-ruled, as the Committee proceeded with the trial of the Case.

MR. ROSE, for the Petitioners ; proposed to the Committee, Division of Case. to admit him to divide his Case and proceed with Evidence only, touching the allegation in the Petition, which states, that the Sitting Member was, at the time of the Election, an Officer of the Board of Works, and thereby disqualified from being elected.

The Committee agreed to permit the Petitioners to divide the Case, as desired by their Counsel.

MR. ROSE having been heard in his Opening ; proceeded Opening. with Evidence, and, by Mr. Mittleberger, proved, that on several occasions,—viz., on the 3rd of October last, on the 24th of the same month, and on the 1st of November following,—he had heard Mr. Merritt admit, that he was a gratuitous Officer of the Board of Works.

The Hon. Mr. Secretary Daly produced certain Letters ; Letters produced by Hon. Mr. Daly. one dated 9th May, 1844, from the Hon. Mr. Killaly, President of the Board of Works, to the Hon. Mr. Secretary Daly, stating the necessity for the appointment of a person to take charge of the Public Works above the Niagara Peninsula ; one from the Hon. Mr. Secretary Daly, of the 11th July following, to Mr. Merritt, offering to him this appointment as a temporary one, at a salary of £500 currency per annum ; and one from Mr. Merritt of the 22nd of the same month, to the Hon. Mr. Secretary Daly, accepting of the situation ; also one from Mr. Merritt to the Hon. Mr. Secretary Daly, of the 21st of October, (the day previous to the day of Election,) resigning this office, and

Case XXV. stating, that not having received any definite instructions from the Board of Works since his appointment, he never considered himself authorized to exercise any direct powers, and therefore did not consider himself in a position to require a formal resignation. However, as he had consented to be nominated as a Candidate, he begged His Excellency would be pleased to accept his relinquishment of any powers or Office he may have been supposed to possess; and that it was never his intention to accept of one farthing for any temporary service, relating to the Public Works.

Other Letters.

Several other letters were produced, shewing that Mr. Merritt had, since his appointment, signed Documents and Reports as "In charge of Western Works."

Hon. Mr. Killaly.

The Hon. Mr. Killaly, President of the Board of Works, stated in Evidence that he did not conceive Mr. Merritt an Officer of his Department, and that Mr. Merritt received no salary; but had performed duties under the appointment in question.

24th January.

MR. ROSE, for the Petitioner; was again heard, in concluding this branch of his Case.

MR. MERRITT was heard in reply.

After deliberation, the Committee—

Decision.

Resolved,—"That the Evidence does not establish, with sufficient certainty, the nature and character of the employment in which it was the intention of the Government to engage the Sitting Member; to enable the Committee to pronounce him to have been, either an Officer of the Board of Works, or to have been engaged by the said Board

7 Vic. c. 65. within the meaning of the Statute 7 Vic., ch. 65, which,

involving heavy penalties for the infraction of its provisions, Case XXV. must be construed strictly, and can be applied only when the party is clearly proved to come within the letter of its enactments."

"*Resolved*,—"That the first ground of objection urged against the return of the Sitting Member, be dismissed, and it is hereby accordingly dismissed."

The Committee ordered that a copy of the Evidence and Documents before the Committee, together with the above Resolutions, be furnished to the Counsel for the Petitioners. Copy of Evidence ordered for Petitioners.

26th January.

The Petitioners, through Mr. Duggan, their Nominee, Case abandoned. intimated and declared to the Committee, that they did not intend to proceed further on the Petition.

The Committee then finally—

Resolved,—"That William Hamilton Merritt, Esquire, is Final decision. duly elected a Member to serve in this present Parliament, for the North Riding of the County of Lincoln."

Resolved,—"That neither the Petition, nor the Defence of the Sitting Member, appear to this Committee, to be Frivolous or Vexatious."

CASE XXVI.

COUNTY OF OXFORD.

The Committee was Ballotted 10th January, 1845.

PIERRE JOSEPH O. CHAUVEAU, Esq., M. P. P. for Quebec,
(Chairman.)

LOUIS BERTRAND, Esq.,
M.P.P. for Rimouski.

LOUIS LACOSTE, Esq., M.P.P.
for Chambly.

JOHN MCCONNELL, Esq.,
M.P.P. for Stanstead.

JACQUES P. LANTIER, Esq.,
M.P.P. for Vaudreuil.

JOHN P. ROBLIN, Esq.,
M.P.P. for Prince Edward.

GEORGE SHERWOOD, Esq.,
M.P.P. for Brockville.

BENJAMIN SEYMOUR, Esq.,
M.P.P. for Lennox & Addington.

WALTER H. DICKSON, Esq.,
M.P.P. for Niagara.

The Hon. ROBERT BALDWIN,
M.P.P. for North York.
Nom. for P.

HENRY SMITH, Jun., Esq.,
M.P.P. for Frontenac.
Nom. for S. M.

Petitioner :—The Hon. FRANCIS HINCKS.

Sitting Member :—ROBERT RIDDELL, Esq.

Counsel for Petitioner :—WILLIAM BUEL RICHARDS, Esq.,

Counsel for Sitting Member :—JOHN ROSE, Esq.

Scrutiny. THIS Case is one of Scrutiny.—At the close of the Poll the votes were—

For Robert Riddell, Esq.,..... 742

For the Hon. Francis Hincks,..... 722

The case on behalf of the Petitioner was opened—and, Case XXVI.
in conclusion, it was requested that a Commission might Opening.
issue for receiving the evidence.

This request being granted, the Committee adjourned.

4th April, 1846.

The Chairman stated that Mr. Bertrand, a Member of Member
the Committee, was excused by the House from further excused.
attendance.

The evidence taken under the Commission, was laid Evidence
before the Committee by the Chairman.

Mr. ROSE, for the Sitting Member ;

Objected to the reception of the evidence, on the ground objected
that the order of the House, directing the Petitioner to to.
furnish the Sitting Member with a list of objected votes,
had not been complied with.

It was argued in behalf of the Petitioner, that the Sitting
Member having appeared by his Counsel, and proceeded
with the case before the Commission, and a mass of evi-
dence on both sides having been thereupon taken, he can-
not now be permitted to revert to this objection with a
view to prevent the Committee from proceeding to try and
determine the case upon the merits.

The Room was cleared, and

The Committee "Resolved,—That there is no evidence Decision.
before the Committee that the List of Objected Votes was
delivered by the Petitioner to the Agent of the Sitting
Member, or left at the residence of the said Agent, pursuant
to the order of the House."

"Resolved,—That the Petitioner have time to procure
the evidence which he has opened to the Committee on the
subject of the delivery of the Lists of Objected Votes, with a
view to the establishment of his right to proceed with his

Case XXVI. case ; and the Sitting Member, such as he may desire to produce in contradiction to the same, or respecting the delivery of his own List."

"*Resolved*,—That in the opinion of this Committee the Statute does not preclude them from receiving evidence upon Collateral Points, such as the delivery of the lists of Objected Votes.

The Parties being admitted, were informed by the Chairman of the above decisions of the Committee.

Adjourn-
ment.

It was requested in behalf of the Petitioner, that the Committee would adjourn for a few days to enable him to send to Woodstock for his Agent, who would prove the Service of his List.

The Committee agreed to the request, and adjourned accordingly.

22nd April.

Mr. Hendry ap-
peared.

On this day the Petitioner stated to the Committee that Mr. Hendry, his Agent, had arrived, and that he was prepared to prove that the List of Objected Votes on his behalf, was duly served on the Agent of the Sitting Member, in conformity with the Order of the House.

Mr. Hendry, one of the Agents for the Petitioner, at the last Election for the County of Oxford, being sworn, stated—that he delivered the said List of Objected Votes to a Clerk of Mr. Robertson's, at Mr. Robertson's office, at three quarters past Ten of the clock, A.M., on the 1st day of February last, the day mentioned in the order of the House of the 15th January.

Lists of
objected
votes.

By desire of the Committee, Mr. Hendry laid before them a List, stated by him, to be a copy of the List referred to in his evidence.

Mr. ROSE, for the Sitting Member; argued, that the deli-

very to the Clerk, at the Office of the Agent, was not a sufficient service, according to the order of the House, which stated, that it should be delivered to, or left at the residence of the said Agent. Case XXVI.

Mr. HINCKS was heard in support of the service.

The Room being cleared—The Committee decided that the service was good, and Service good.

Resolved,—That the Petitioner is entitled to proceed with his case, and that he be confined, throughout the Scrutiny, to the Objections, on the List handed in by Mr. Hendry, as a copy of the one served on the Agent for the Sitting Member. Petitioner to proceed.

The Petitioner then proceeded.

The Vote of Edmund Deedes was objected to on the ground,

That the voter had *betted* on the election. Betting.

The Committee, after hearing arguments from the parties upon this principle,

Resolved,—That in the opinion of this Committee, the vote of Edmund Deedes is not invalidated from the fact of his having made a Wager on the last Election for the County of Oxford, it clearly appearing to the Committee, from the evidence, that the said Wager had no influence on the voter. Decision.

In the course of this Scrutiny, the following classes of votes were, by the Committee, held to be BAD :—

Upon the objection "VALUE OF FREEHOLD":

On a Town Lot of half an Acre, no House or improvements, lies Common, value £6. Votes held bad.

On Two Town Lots, lying in Common, Voter swore to their yearly value of 40s. Sterling.

On a 50 Acre Lot, sold for £36 5s, but not paid for, a

Case XXVI. small Log House on the lot, no Barn, the person who had bought it, would not pay over \$6 a year for it.

On a Lot of 50 Acres of Wild Land, value \$2½ an Acre.

On a Lot of 8 acres of Wild Land, value of the Timber sworn to at 40s. Sterling, per annum, Land no value.

And upon the objection "AN ALIEN":

Aliens. Voter born in the United States, came to this country in 1824, took Oath of Allegiance before Deputy Returning Officer at the Election, has paid Alien fines.

Voter born in the United States, came to this country in 1821, had taken the Oath of Allegiance before the Chairman of the Quarter Sessions Court.

Voter admitted being an Alien by paying Alien fine, came to this country 10 years ago, took the Affirmation of Allegiance at the Poll before the Deputy Returning Officer.

Votes held Good under the same objection of "AN ALIEN":—

Voter admitted to the Deputy Returning Officer at the Poll, that he was born in the United States, and had not taken the Oath of Allegiance, had resided in the Province seven years. The Oath of Allegiance was administered by Deputy Returning Officer.

Voter admitted to Deputy Returning Officer, that he was born in the United States, had been in this country sixteen years, Returning Officer refused to administer the Oath of Allegiance. This oath was taken by the voter before the Deputy Register of the County, his father was an Englishman.

Voter was born in the United States, came to Canada in 1818, has served in the Militia Training, and as a Constable; no proof of his not having taken the Oath of Allegiance.

Voter admitted before the Witness, he came from the

United States when a child, in 1813, and had never taken the Oath of Allegiance, has trained as a Militia man. The admissions made about the time this Scrutiny was demanded. Case XXVI.

Voter admitted to the Witness since the Election, that he was born in the United States, and that the Americans were his countrymen.

The Scrutiny was proceeded in from day to day, and Forty votes were struck from the Poll Book ; Twelve of which were polled for Mr. Hincks, and twenty-eight for Mr. Riddle, leaving on the gross Poll, Four votes in favour of Mr. Riddle. Votes struck from Poll.

26th May.

The Chairman stated that Mr. Roblin, a member of the Committee had, since its last sitting, vacated his seat, by the acceptance of Office. Member vacates by accepting office.

The reading of the evidence upon the Objected Votes being resumed,

Mr. HINCKS addressed the Committee, and stated that he had abandoned the Scrutiny ; and expressed a wish to proceed with evidence to vitiate the Election. Scrutiny abandoned.

Mr. ROSE, for the Sitting Member ; objected to any further proceedings, except on the Scrutiny, on the ground, that there was no prayer in the Petition for that purpose.

It was argued on behalf of the Petitioner, that he is competent, upon his Petition to proceed on that part of his case opened by him to the Committee, affecting the legality of the Election and Return of the Sitting Member, notwithstanding his having abandoned the Scrutiny. Legality of the Election.

The Committee :—

Resolved,—That in their opinion, the Petitioner, having abandoned the Scrutiny, is precluded from entering into evidence to violate the Election, there being no specified

Case XXVI. ground of objection or prayer to that effect, contained in the Petition.

Case abandoned.

The Petitioner then abandoned his case, and the Committee :—

Final Resolution.

Resolved,—That the Sitting Member was duly Elected, and neither the Petition, nor the opposition to it, were frivolous or vexatious.

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CASE XXVII.
COUNTY OF NORFOLK.

The Committee was Ballotted on the 10th January, 1845.

WILLIAM DUNLOP, Esquire, M. P. P. for Huron,
(Chairman.)

ROBERT N. WATTS, Esq.,
 M. P. P. for Drummond.

JAMES CUMMINGS, Esq.,
 M. P. P. for Lincoln.

JOHN T. WILLIAMS, Esq.,
 M. P. P. for Durham.

The Hon. D. B. PAPINEAU,
 M. P. P. for Ottawa.

JEAN CHABOT, Esq.,
 M. P. P. for Quebec.

BENJAMIN SEYMOUR, Esq.,
 M. P. P. for Lenox & Addington.

GEORGE SHERWOOD, Esq.,
 M. P. P. for Brockville.

LOUIS GUILLET, Esq.,
 M. P. P. for Champlain.

The Hon. HY. SHERWOOD,
 M. P. P. for Toronto.
 Nom. for P.

The Hon. AUG. N. MORIN,
 M. P. P. for Bellechasse.
 Nom. for S. M.

Petitioners :—Electors, and **DAVID DUNCOMBE, Esquire, a**
Candidate.

Sitting Member :—**ISRAEL W. POWELL, Esquire.**

Counsel for Petitioners :—**MURDOCH MORISON, Esquire.**

Counsel for Sitting Member :—**JOHN ROSE, Esquire.**

Agent for Petitioners :—**MR. WALKER, MR. WILSON, and**
MR. MCKELAN.

Agent for Sitting Member :—**MR. CROUSE.**

THE Petition was by a Candidate and Electors ;—and Qualifica-
 states—that the qualification of the Sitting Member was tion.

Case XXVII. demanded by an Elector at the Polling place, in the Township of Walsingham.

That no declaration, or copy of a declaration, was present at the said Polling place.

Titus
Williams.

That in consequence thereof, the Deputy Returning Officer, Mr. Titus Williams, refused to receive any more votes for either of the Candidates.

That Mr. Powell's majority over Mr. Duncombe, on the gross poll, was Four.

It also stated, that the Sitting Member had not, according to the provisions of the Statute 4 and 5, Vict. cap. 52; delivered to the Returning Officer any declaration of his qualification.

And therefore prays that Mr. Duncombe may be declared the Sitting Member—or that a new Writ may issue.

Before the Counsel for the Petitioners was called on to open his case,

Objections. Mr. ROSE, Counsel on behalf of the Sitting Member, submitted two preliminary objections, viz:—

First.—That the Petition against the return of the Sitting Member, is insufficient, even if the allegations therein are proved, to void the Election.

Second.—That evidence should not be received with reference to the declaration of qualification being demanded at the Poll in the Township of Walsingham.

Mr. MORISON, for the Petitioners; was heard in reply.

After deliberating upon the above objections, the Committee passed the following Resolution:—

Decision. *Resolved,*—That the Petitioners be required to go into evidence to substantiate the allegations in their Petition, with the exception of that part of it, which alleges that the Declaration of Qualification of the Sitting Member was de-

manded at the Poll at the Township of Walsingham, and Case XXVII.
not given.

The Chairman having informed the parties of the above decision.

Mr. MORISON, Counsel for the Petitioners ; proceeded to open his Case, and concluded, by requesting that a Commission might issue for taking the evidence. Petition-
er's open-
ing.

The Chairman was instructed to move the House for the appointment of the Commissioners, as requested ; and the Committee adjourned. Commis-
sion.

15th March.

This day the Chairman laid before the Committee the Evidence.
Evidence taken under the Commission.

The Evidence was read.

Mr. MORISON, for the Petitioners, closed his case.

Case
closed.

Mr. ROSE, for the Sitting Member, was heard in reply ;
and urged that the Petition, and all Proceedings thereon,
had been frivolous and vexatious.

To this proposition, Mr. MORISON was heard in reply.

The Room was cleared, and

The Committee agreed to the following resolutions :—

Resolved,—That Israel Wood Powell, Esq., was duly
Elected as Member for the County of Norfolk, at the last
election. Final Re-
solutions.

And the Committee, by a further resolution, informed the House that in their opinion, Titus Williams, Esq., Deputy Returning Officer for the Township of Walsingham, has been guilty of an infraction of duty, in closing the Poll without sufficient cause, before the hour of five o'clock, P.M., on the Second day of the Election ; but there is no Evidence to satisfy this Committee, that such infraction of duty proceeded from any wilful or corrupt motive.

Case XXVII. *Resolved*,—That the defence of the said Israel Wood Powell against the Petition of David Duncombe and others, is not frivolous or vexatious.

Resolved,—That the Petition of the said David Duncombe, Esq., and others, is not frivolous or vexatious.

CASE XXVIII.

COUNTY OF LANARK.

The Committee was balloted on the 13th January, 1845.

GEORGE SHERWOOD, Esq., M. P. P. for Brockville,
(Chairman.)

EDWARD HALE, Esq.,
M. P. P. for Sherbrooke.

GEORGE McDONELL, Esq.,
M. P. P. for Dundas.

JOHN MCCONNELL, Esq.,
M. P. P. for Stanstead.

STEPHEN S. FOSTER, Esq.,
M. P. P. for Shefford.

EDWARD GREIVE, Esq.,
M. P. P. for Three Rivers.

GEORGE B. HALL, Esq.,
M. P. P. for Northumberland.

ROBERT N. WATTS, Esq.,
M. P. P. for Drummond.

JOHN LEBOUTHILLIER, Esq.,
M. P. P. for Bonaventure.

The Hon. HY. SHERWOOD,
M. P. P. for Toronto,—Nom. for P.

The Hon. ROBERT BALDWIN,
M.P.P. for York,—Nom. for S. M.

*Petitioners :—*Electors.

*Sitting Member :—*MALCOLM CAMERON, Esquire.

*Agent for the Petitioners :—*ALEXANDER FRASER, Esquire.

THIS is a case in which no Polls were held in certain remote Townships within the limits of the County; from circumstances which, it is alleged, were beyond the controul of the Returning Officer or the Candidates.

No Polls
in certain
Townships.

It was argued on behalf of the Sitting Member, that the mere fact of there not having been Polls taken for these Townships from the above causes, is not, in itself, sufficient

Case XXVIII. to avoid the Election, and that before the Sitting Member can be called upon to enter upon his defence, the Petitioners should proceed to shew that the probable number of votes in such Townships, was sufficient, had they all polled for the unsuccessful Candidate, to have given him a majority on the aggregate Poll of such Election.

A Resolution to this effect was proposed and negatived, by the Committee.

It was then moved to Resolve,—That certain Townships belonging to the County of Lanark, having been left out by the Returning Officer at the last General Election, it is clear that the Returning Officer has not followed the directions of the Statute in that behalf, and that such omission ought to avoid the Election of the Sitting Member, unless he shews, that notwithstanding such departure from the Statute, he does still represent the majority of the Electors; and therefore, it is the opinion of this Committee, that the Sitting Member may go into proof of that fact, if it be so.

This Resolution was also negatived.

After deliberation, the Committee passed the following Resolutions :

Final decision.

Resolved,—That in consequence of a Poll not being held in the Townships of Westmeath and Ross, and the United Townships of Pembroke and Stafford, for the County of Lanark, at the last Election for the said County, the said Election is void.

That neither the Petition, nor the defence are frivolous or vexatious.

CASE XXIX.

COUNTY OF STORMONT.

The Committee was ballotted on the 15th January, 1845.

ANTOINE PROSPÈRE MÉTHOT, Esq., M. P. P., for Nicolet,
(Chairman.)

BRNJ. H. LEMOINE, Esq.,
M. P. P. for Huntingdon.

ROBERT N. WATTS, Esq.,
M. P. P. for Drummond.

LOUIS LACOSTE, Esq.,
M. P. P. for Chambly.

EDWARD GREIVE, Esq.,
M. P. P. for Three Rivers.

JOHN MCCONNELL, Esq.,
M. P. P. for Stanstead.

WILLIAM DUNLOP, Esq.,
M. P. P. for Huron.

GEORGE McDONELL, Esq.,
M. P. P. for Dundas.

BENJAMIN SEYMOUR, Esq.,
M. P. P. for Lenox & Addington.

EDMUND MURNEY, Esq.,
M.P.P. for Hastings,—Nom. for P.

JOHN A. MACDONALD, Esq.,
M.P.P. for Kingston,—Nom. for S.M.

Petitioners :—Elector.

Sitting Member :—DONALD AENEAS MACDONELL, Esq.

Opposing Candidates :—ALEX. MCLEAN, Esq.

Counsel for Petitioners :— ROBERTSON, Esquire.

Counsel for Sitting Member :—JOHN ROSE, Esquire.

THE Petition in this case alleges, That gross Bribery and Corruption were resorted to by the Sitting Member, and his authorised Agents, and also, that the said Sitting

Case XXIX. Member was disqualified for being elected on the ground ; that at the time of the Election, he held the Office of, Agent for the sale of Crown Lands,—and that Mr. McLean, the opposing Candidate, has a majority of legal votes on the Poll ; and prays that Mr. McLean might be declared duly elected, or that a new Writ might issue.

Petition-
er's open-
ing.

This case was opened by Mr. Robertson, Counsel on behalf of the Petitioners—who abandoned the charge of Bribery, and rested his case solely on the following points :

Qualifica-
tion.

First,—That the Sitting Member was disqualified, at the time of the Election, by holding the Office of Resident Crown Land Agent, for the Eastern District.

Second,—That such disqualification was notorious at the time of the Election, and was made known to the Returning Officer.

Third,—That Mr. McLean has a majority of legal votes on the Poll Books.

Evidence.

The evidence given before the Committee was to the following effect.

Letter
produced.

That the day for the nomination of Candidates for this County, took place on the 12th October. A Letter was produced, dated on that day, signed by Mr. McDonell, to the Hon. Commissioner of Crown Lands, resigning his office of Agent for the sale of Crown Lands in the Eastern District. This Letter is proved to have been mailed at Cornwall on the 14th or 15th, and to have been received at the Crown Land Office on the 16th of the same month. That Mr. McDonell continues to perform the duties of the Office, by the request of the Head of the Department, until a Successor shall be appointed.

Mr. ROSE, Counsel for the Sitting Member ; then addressed the Committee in reply, and having closed,

The Committee came to the following Resolutions :

Case XXIX.

Resolved,—That on the 11th day of October last, the Sitting Member was District Agent for the sale of Crown Lands for the Eastern District.

Final decision.

Resolved,—That on the 16th day of the same month, the Sitting Member ceased to be Resident Agent for the sale of Crown Lands for the Eastern District.

Resolved,—That there having been three Candidates nominated, and a Poll demanded on the 12th October, 1844, and the Sitting Member having ceased to be Resident Agent on the 16th October, and subsequently, to be voted for, elected and returned as Member for the County of Stormont ;

Resolved,—That Donald Aeneas Macdonell, Esq., was duly elected a Member to represent the County of Stormont, in the present Parliament,—and that neither the Petition, nor the defence of the Sitting Member, is frivolous or vexatious.

C A S E X X X .

COUNTY OF MIDDLESEX.

The Committee was Ballotted on the 16th January, 1845.

WALTER HAMILTON DICKSON, Esquire, M. P. P. for Niagara, (*Chairman.*)

FRANÇOIS DESAUNIERS, Esq., M. P. P. for St. Maurice.	ETIENNE P. TACHÉ, Esq., M. P. P. for L'Islet,
NEIL STEWART, Esq., M. P. P. for Prescott.	JOHN MCCONNELL, Esq., M. P. P. for Stanstead.
BENJAMIN SEYMOUR, Esq., M. P. P. for Lennox & Add.	JOHN T. WILLIAMS, Esq., M. P. P. for Durham.
LOUIS LACOSTE, Esq., M. P. P. for Chambly.	The Hon. T. C. AYLWIN, M. P. P. for Quebec. <i>Nom. P.</i>
JOHN A. McDONALD, Esq., M. P. P. for Kingston.	The Hon. HENRY SHERWOOD, M.P.P. for Toronto. <i>Nom. S.M.</i>

Petitioners :—1. Electors.

2. WILLIAM NOTMAN, Esq., a Candidate.

Sitting Member :—EDWARD ERMATINGER, Esq.

Counsel for the Petitioners :—WM. BUEL RICHARDS, Esq.

Mr. NOTMAN appeared in his own behalf.

Mr. ERMATINGER appeared in his own behalf.

THE Petitions in this case state :—

That at the last Election for the County of Middlesex, William Notman, Esq., and the Sitting Member were Can-

didates ;—That John Wilson, Esq., of London, was the Case XXX.
Returning Officer ;

And allege :—

That the Returning Officer for the Township of Malahide Error in adding the votes.
had made an error in the adding the Votes for that Town-
ship, of two, in favour of the Sitting Member.

That there was irregularity and misconduct in many of Protest.
the proceedings during the said Election, which are set forth
in the Protest accompanying the Return of the Sitting
Member.

That the majority of Legal Votes were polled for Mr.
Notman.

That the Election was held in the Town of London, which
is Incorporated, and not within the County, as the Law
directs.

And that the several Returning Officers and Poll Clerks Returning Officers not sworn.
were not Sworn at the respective and proper times and
places, as directed by the Statute.

And prayed, that the Return might be amended by eras-
ing the name of Mr. Ermatinger, and inserting the name of
Mr. Notman in lieu thereof.

At the close of the Poll, the Number of Votes, reported Poll.
by the Returning Officers to have been polled, were—

For Mr. Ermatinger 1000

For Mr. Notman 993

Shewing a Majority in favour of Mr. Ermatinger of
Seven Votes.

On the 20th January, a Commission was issued for taking Commis- sion not returned.
the Evidence in this Case ; which, not being returned before
the Prorogation, the Committee stood adjourned to the
Second day of the Ensuing Session.

Case XXX.

22nd March, 1846.

The Committee met pursuant to the Statute, and the Commission not having been returned, it was

Ordered,—That the Chairman do enquire of Mr. Speaker, whether the Commission issued for the examination of witnesses, in the matter of the Controverted Election for the County of Middlesex, be yet returned.

31st March.

The CHAIRMAN informed the Committee that he had made enquiry of Mr. Speaker, pursuant to its order of yesterday, and was informed that the Commission was not returned.

Special
Report.

Whereupon a Special Report was ordered to be made to the House of the following Resolutions.

Resolved,—"That WILLIAM H. HORTON, of the Town of London, Esq., GEORGE S. TIFFANY, of the Town of Hamilton, Esq., and THOMAS D. WARREN, of the Village of St. Thomas, Esq., Commissioners appointed to take the Evidence in the Controverted Election for the County of Middlesex, have been guilty of Neglect, in not making a Return to the Commission issued by order of the House, and to them directed in that behalf."

Resolved,—"That in the Opinion of this Committee, the said Commissioners should be Summoned to appear at the Bar of the House, to answer for such their neglect, and that they bear the expense of the Summons."

Commis-
sion re-
turned.

The Committee, on its rising, adjourned from day to day until the 20th April, when the Chairman reported that Mr. Speaker had handed to him the Return to the Commission, and a Letter from Mr. Horton, the Chairman of the Commissioners, which were laid before the Committee.

Letter.

This Letter stated as the cause of the delay in returning the Commission, that Mr. Warren, one of the Commission-

ers, and himself, were of Opinion that they would be ordered again to proceed in taking further Evidence in consequence of having received the Evidence only in part. Case XXX.

This Letter was, by a Special Report, laid before the House.

The PETITIONER was called upon to proceed with his Case.

The SITTING MEMBER objected to the evidence taken by the Commissioners being received; on the Ground of an Adjournment on the 3rd March to the 30th June, which was extremely prejudicial to his Interests, and having been advised professionally that it was illegal, he entered a Protest before the Commissioners accordingly. Adjournments.

The PETITIONER was heard in Opposition to the Objection; and stated, That the reason why the Commissioners had so Adjourned their Sittings was, that the state of the Roads at that time rendered it impossible for either Summonses to be served, or Witnesses to attend. That the Adjournment was agreed to by all Parties, and that no Protest was offered at the time; but that on the 30th June, an Entry was made on the Proceedings of 3rd March, Protesting, on the part of the Sitting Member, against the Adjournment.

The SITTING MEMBER was again heard; and stated that, although the Condition of the Roads at the time of the Adjournment was bad, it was not the reason of such Adjournment, inasmuch as several Witnesses were then on or near the spot where the Sittings of the Committee were held.

He stated also, with regard to the protest not being entered on the 3rd March, when it was made; that his authorized Agent, Mr. Eccles, was not present on that day, but that on discovering that the Protest given by Mr. Burwell, whom he had deputed to act for him, was not entered, he desired, on the following day, that it might be entered



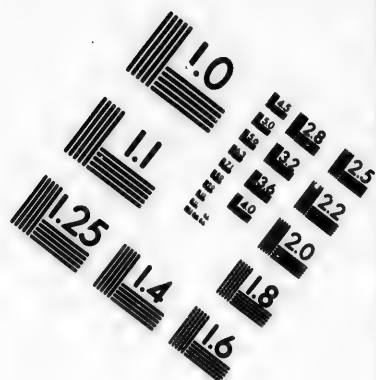
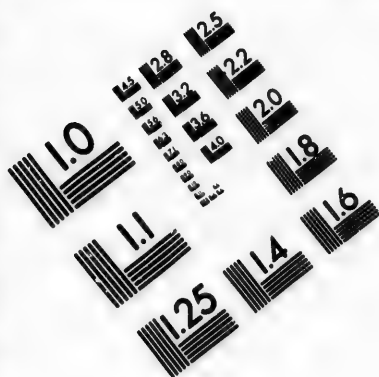
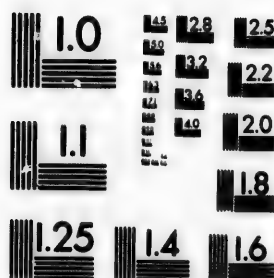


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Case XXX. forthwith ; but was told by the Commissioners that it could not be so entered until the next Meeting, which was to be on the 30th June.

The Parties were then directed to withdraw ; and the Committee

Resolutions.

Resolved,—"That the Mode of Proceeding on the part of the Commissioners appointed to take Evidence in the Matter of the Controverted Election for the County of Middlesex, in adjourning several Months on different occasions, without any reason assigned, was Illegal."

Resolved,—"That the Evidence taken under the Commission so Illegally executed, cannot be received or read as Evidence before the Committee."

It was ordered, that the Chairman do report the last resolution to the House ; and the Committee adjourned.

5th May.

On this day the Petitioner, MR. NOTMAN, addressed the Committee ; and concluded by stating, that owing to the Decision of the Committee, Rejecting the Evidence taken by the Commissioners ; he abandoned the Contest,

And having retired,

The Committee

Final decision.

Resolved,—"That the Sitting Member for the County of Middlesex has been duly Elected and Returned. And,

That neither the Petition, or the Opposition to It, were Frivolous or Vexatious."

CASE XXXI.

COUNTY OF OXFORD.

*Sitting Member:—*PETER CARROLL, Esq.

THE Proceedings in this Case were commenced, by the House directing that the Clerk of the Crown in Chancery do forthwith produce and lay upon the Table, the last Return for the County of Oxford, together with the Poll Books transmitted to him by the Returning Officer for that County.

Poll
Books, &c.
laid on the
table.

Upon this Order being complied with, the following Resolutions were passed by the House:—

Resolu-
tions.

Resolved,—"That in Obedience to a Writ of Election duly issued, and returnable on the 24th day of January in the present year, an Election was held for the County of Oxford on the 28th day of December, 1847."

Resolved,—"That Francis Hincks, Esquire, and Peter Carroll, Esquire, were Proposed and Seconded, and were Candidates at the said Election."

Resolved,—"That a Poll was Demanded and Allowed by the Returning Officer, according to Law, and that the said Poll was taken in the several Townships comprised within the said County."

Resolved,—"That by the said Poll Books Returned to the Clerk of the Crown in Chancery, with the said Writ of Election, it appears that Eight Hundred and Thirteen votes were taken for the said Francis Hincks, and Four Hundred and Seventy-eight votes for the said Peter Carroll; and

Case XXXI. that, therefore, so far as the Facts appear from the said Poll Books, the said Francis Hincks should have been returned, duly Elected."

Resolved,—"That notwithstanding the said Majority of Votes appearing in favour of the said Francis Hincks, the Returning Officer who held the said Election, returned the said Peter Carroll duly Elected; and the said Peter Carroll has taken a Seat in this House, in pursuance of such Return."

Resolved,—"That a due regard for the Rights of Electors, and for the Privileges of this House, requires that the said Return should be amended according to the Facts apparent upon the said Poll Books."

Resolved,—"That the Clerk of the Crown in Chancery do attend this House forthwith, and amend the Return for the said County of Oxford, by erasing the name of Peter Carroll, and inserting therein the name of the said Francis Hincks; and that the said Francis Hincks do take his Seat in the House forthwith, in place of the said Peter Carroll; reserving to the said Peter Carroll, and to all others whom it may concern, all Rights of Petition and other proceedings for Controverting and Obtaining a Final Decision on the Legality of the said Election and Return."

Whereupon the Honourable Francis Hincks took his Seat in the House, as the Sitting Member for this County.

A Petition was subsequently presented to the House by Peter Carroll, Esquire, upon which a Committee was struck for the Trial of the Case.

The Committee was ballotted 15th March, 1848.

Case XXXI.

JEAN CHABOT, Esq., M.P.P. for the County of Quebec, Committee.
(Chairman.)

JOSEPH C. MORRISON, Esq., M.P.P. for West York.	ROBERT BELL, Esq., M.P.P. for Lanark.
COLONEL DUCHESNAY, M.P.P. for Portneuf.	THOMAS BOUTILLIER, Esq., M.P.P. for St. Hyacinthe.
JOSEPH C. TACHÉ, Esq., M.P.P. for Rimouski.	COLONEL PRINCE, M.P.P. for Essex.—Nom. for P.
JOSEPH LAURIN, Esq., M.P.P. for Lotbinière.	LEWIS T. DRUMMOND, Esq., M.P.P. for Shefford. Nom. for S.M.
DAVID THOMPSON, Esq., M.P.P. for Haldimand.	
MICHEL FOURQUIN, Esq., M.P.P. for Yamaska.	

Petitioner :—PETER CARROLL, Esq.

Sitting Member :—The Honourable FRANCIS HINCKS.

Counsel for the Petitioner :—JOHN ROSE, Esq.

Counsel for the Sitting Member :—HENRY JUDAH, Esq.

THE Petitioner alleges :—that on the Day of the Nomination at the last Election for this County, the Property Qualification of the Honourable Francis Hincks was duly demanded by an Elector, and the said Francis Hincks not being personally present, there was presented to the Returning Officer, alleged to be on his behalf, a Paper purporting to be a Declaration of Qualification, according to Law, but taken and subscribed long before the Dissolution of the last Parliament.

Qualification.

Case XXXI. That the Petitioner then, and still, believing the Declaration to be of no Validity, Protested against the same, and on the Polling Days, in the several Townships, gave Notice that the said Francis Hincks had not given in his Qualification according to Law; and that all Votes polled for him would be thrown away. That the said Declaration of Qualification is insufficient and worthless, on the further ground that the said Francis Hincks was not prevented from attending the said Election by Sickness or any other Unavoidable cause, and ought, therefore, according to the terms of the Act of Union, to have been Personally present at the said Election. That the said Declaration is not such, as that any Indictment for Perjury or Misdemeanor could be preferred thereon, if Untrue; that it is not Direct and Positive, but in the Alternative; and that the Property on which the said Francis Hincks so pretended to qualify is not of the value of Five Hundred Pounds Sterling, over and above all Incumbrances—and Prays the House to enquire into the matter, and grant to the Petitioner the Seat.

The Hon. Mr. Hincks, the Sitting Member, having vacated his Seat by the acceptance of Office, was, by a Resolution of the House, admitted as a party to oppose the Petition in this Case.

The Clerk of the Crown in Chancery laid before the Committee the Qualification of Mr. Hincks as produced before the Returning Officer at the Election.

MR. ROSE, for the Petitioner; proceeded with his Opening and concluded.

George Brown, Esq., was called, and Sworn.

MR. ROSE proposed the following Question: "Were you the person by whom the Paper Writing styled 'Qualification

of Mr. Hincks,' was delivered to the Returning Officer; Case XXXI.
From whom did you receive it?"

MR. JUDAH Objected to the latter part of the Question being put to the Witness.

Objection held good; and the words "From whom did you receive it," struck out.

The Witness answered, that he was the Person mentioned in the question.

Another Question was proposed by Mr. ROSE, and objected to by Mr. JUDAH. Objection held good; and the Question withdrawn.

MR. JUDAH, for the Hon. Mr. Hincks; admitted that Mr. Hincks arrived in the Province on or about the 18th or 19th of December last, and was about his Ordinary Business in Montreal from that date to the time of the Election, on the 28th of the same Month.

MR. ROSE, for the Petitioner, was again heard; and having declared his Case closed,

MR. JUDAH then addressed the Committee, and concluded the Defence.

MR. ROSE was heard in explanation.

The Parties were directed to withdraw.

18th March.

The Committee, after deliberation, came to the following as their Final Resolutions:—

Resolved,—"That the Alegations contained in the Petition of Peter Carroll, Esquire, touching the sufficiency of the Declaration of Qualification produced at the late Election for the County of Oxford, in behalf of the Hon. Francis Hincks, are not sustained by Evidence adduced before this

Case XXXI. Committee on the part of Peter Carroll, the said Petitioner."

Resolved,—"That the Declaration of Qualification of the said Hon. Francis Hincks was Duly and Legally made at the said Election for the County of Oxford."

Resolved,—"That the said Hon. Francis Hincks was Duly Elected a Member to serve in the present Parliament, and ought to have been Returned as such, by the Returning Officer at the said Election for the County of Oxford."

Resolved,—"That neither the Petition nor the Defence by the Hon. Francis Hincks are Frivolous or Vexatious."

By Order of the House, the Returning Officer, John George Vansittart, Esquire, appeared at the Bar, and having been heard by himself, and Witnesses ; touching his conduct at this Election, the House passed the following Resolutions :—

Resolved,—"That this House, having heard the Evidence
"adduced on the part of John George Vansittart, Esquire, in
"defence of his conduct as Returning Officer for the County
"of Oxford at the last General Election, adheres to its Resolution of the 21st March last, 'That the said John
"George Vansittart, Esquire, having taken upon himself
"to return Peter Carroll, Esquire, as Member for the
"said County, to serve in the present Parliament, contrary
"to the Majority of Votes received by him on the Poll
"Books in favour of the Hon. Francis Hincks, who ought
"therefore to have been returned, acted illegally, in defiance of Law, in Manifest Violation of the Rights of the
"Freeholders of the said County, and in Breach of the
"Privileges of this House.'"

Resolved,—"That an Humble Address be presented to His Case XXXI.
" Excellency the Governor General, praying that His Excel-
" lency may be pleased to remove the said John George Van-
" sittart, Esquire, from being Inspector of Licenses for the
" District of Brock, as a Warning to others who shall
" hereafter fill the very Responsible Office of Returning
" Officer."

CASE XXXII.

COUNTY OF KENT.

1st Session, 3rd Parliament, 1848.

(A Special Return.)

Candidates:—MALCOLM CAMERON, Esquire, and the Honourable JOHN HILLYARD CAMERON.

Returning
Officer's
Return to
Writ.

IN this case, a Communication is made by the Returning Officer, and laid before the House, as a Return to the Writ of Election, in the following words, viz. :—

Qualifica-
tion of a
Candidate.

“By virtue of the Writ by which I am appointed Returning Officer for the County of Kent, I do declare and make

“That Malcolm Cameron, Esquire, and the Honourable John Hillyard Cameron, were the Candidates for the Representation of the said County. That on the First and Second days of polling Votes during the said Election, as will appear by reference to the Poll Books for the said County, the Qualification of the said Malcolm Cameron, Esquire, (qualifying to sit as a Member for Kent, should be Elected according to the Statute in such Case made and provided) was demanded by Electors of the said County, in several Townships of the said County, of the Deputy Returning Officers of such Townships respectively, as will appear by reference to the said Poll Books, and that no Qualification according to the Statute was handed to any of the Deputy Returning Officers for the said County, or to myself, the Returning Officer, by the said Malcolm Cameron, or by any

one on his behalf, until the Third Day after the several Polls Case XXXII.
 for the said County had closed, to wit, on the 22d instant.
 I, therefore, feeling doubtful whether Malcolm Cameron is
 Elected for the said County, his Qualification having been
 demanded at the several Polling places as aforesaid, and
 not being put in, or forthcoming when so demanded, or du-
 ring the said Polling, do hereby Declare that I cannot return
 him, the said Malcolm Cameron, to be the Member Elect for
 the said County, but leave it to the Honourable the
 House of Assembly to decide who, under the circum-
 stances, is the Member Elect for Kent."

"January 24th, 1848."

By order of the House, the Clerk of the Crown in Chan- Poll Books,
&c., laid on
table.
 cery laid upon the Table the last Writ of Election for the
 County of Kent, together with the Poll Books returned
 therewith to him, by the Returning Officer for the said
 County, at the said Election.

Whereupon the House

Resolved,—"That in obedience to a Writ of Election duly Resolu-
tions of the
House.
 Issued, and Returnable on the Twenty-fourth Day of Ja-
 nuary in the present Year, an Election was held for the
 Kent, on the 13th day of January last."

Resolved,—"That Malcolm Cameron, Esquire, and the
 Honourable John Hillyard Cameron, were Proposed and
 Seconded, and were Candidates at such Election."

Resolved,—"That a Poll was demanded and allowed by
 the Returning Officer, according to Law, and that the said
 Poll was taken in the several Townships comprised within
 the said County."

Resolved,—"That it appears, by the Poll Books returned
 to the Clerk of the Crown in Chancery with the said Writ

Case XXXII. of Election, that One Thousand and Seventy-nine Votes were recorded for the said Malcolm Cameron, and Five Hundred and Fifty Votes for the said Hon. John Hillyard Cameron, and, therefore, that the said Malcolm Cameron had a Majority of Votes ; and that notwithstanding this, the said Returning Officer, George Wade Foote, Esquire, did not declare the said Malcolm Cameron as duly Elected."

Resolutions.

Resolved,—"That the said Malcolm Cameron ought to have been Duly Returned as Knight Representative for the County of Kent, in the present Parliament."

Resolved,—"That the said Malcolm Cameron has a Right to take his Seat in this House as Representative for the said County of Kent ; saving, however, to all Candidates and Electors their Right of Contesting, if they think proper, in such manner as may appertain in Law and Justice, according to the usage of Parliament."

CASE XXXIII.

TOWN OF CORNWALL.

Committee was Ballotted on the 17th March, 1848.

LEWIS THOMAS DRUMMOND, Esquire, M. P. P. for Shefford,
(Chairman.)

NORBERT DUMAS,, Esq.,
M. P. P. for Leinster.

COLONEL DUCHESNAY, M.P.P.
for Port Neuf.

JOHN EGAN, Esq., M. P. P.
for Ottawa.

PIERRE C. MARQUIS, Esq.,
M. P. P. for Kamouraska.

JEAN BTE. MONGENAIT, Esq.,
M. P. P. for Vaudreuil.

WM. BUEL RICHARDS, Esq.,
M. P. P. for Leeds,
Nom. for P.

JOHN MCCONNELL, Esq.,
M. P. P. for Stanstead.

PIERRE J.C. CHAUVEAU, Esq.
M. P. P. for Quebec,
Nom. for S. M.

TANCRÉDE SAUVAGEAU, Esq.,
M. P. P. for Huntingdon.

DAVID B. STEVENSON, Esq.,
M. P. P. for Prince Edward.

Petitioners :—Electors.

*Sitting Member :—The Honourable JOHN HILLYARD
CAMERON.*

Counsel for Petitioners :—HENRY JUDAH, Esquire.

The Sitting Member appeared in his own behalf.

THE Petition Alleges :—that the Notice of Eight Days re-
quired by Law, to be given previously to the Election, was
not given; the time between its Publication and the Elec-
tion, being Seven Days only. That the Return of the Ho-
nourable John Hillyard Cameron, the Sitting Member, was

Eight
days'
notice.

Case XXXIII. effected partly through means of Bribery, Corruption and Intimidation. That a number of illegal Votes were polled in his favour. That a Member of the Legislative Council was allowed to record his Vote in favour of the Sitting Member. That the Qualification of the Sitting Member was made before a Magistrate, and not before the Returning Officer; and Prays for Relief in the premises.

Objections by S. M. As a Preliminary Proceeding, MR. CAMERON submitted to the Committee, several Objections to the reception of the Petition.

MR. JUDAH, for the Petitioners; was heard in reply.

After considerable discussion, the Committee

Decision. *Resolved*,—"That in the opinion of this Committee, the Allegations in the Petition, and the Prayer of the Petitioners, are sufficient to require further Investigation of the matters therein complained of."

22nd March.

Petitioner's Opening. MR. JUDAH, for the Petitioners; proceeded with the Opening of his Case; and in Conclusion, stated; that he rested the same, solely upon that part of the Petition which Alleges that Eight Days' Notice of the Election was not given by the Returning Officer.

Returning Officer's Evidence. Dunbar Pringle, Esq., the Returning Officer at the last Election for Cornwall, was called, on the part of the Petitioners, who being Sworn, stated, that he received the Writ on Thursday, the 8th December last, and forthwith gave Notice to the Electors by Proclamation, that he would hold the Election on the Thursday following; was requested to fix that day by the Sitting Member, the Opposing Candidate consenting,—the Election was held accordingly. The Polling commenced on the Wednesday following the

day of Election ; there was no Protest made during the Election of any kind ; there was much time at the different Polls in which no Votes were taken ; does not think the short Notice prevented any Person from voting ; some Voters came from a distance.

This being all the Evidence adduced in the Case,

The Counsel for the Parties were then heard ; and the room being cleared,

The Committee proceeded with the consideration of the Case ; and not having finally decided the same before the Prorogation,—it stood adjourned, pursuant to the Statute, to the second day of the ensuing Session.

19th January, 1849.

This day the Committee resumed its sittings.

MR. DRUMMOND, the Chairman of the Committee, having, during the Recess, vacated his Seat in the House by the acceptance of the office of Solicitor General, was thereby disqualified from being a Member of the Committee, although re-elected for the same Constituency. Whereupon

NORBERT DUMAS, Esquire, M.P.P. for Leinster,

was unanimously chosen Chairman of the Committee, in the room of Mr. Drummond.

The Committee proceeded with the deliberation of the Case for several Days, and finally agreed to the following Resolutions :—

Resolved,—"That, in the opinion of this Committee, Eight clear days' Notice of the time and place of holding an Election, is required by the Provincial Statute 6 Vic. chap. 1."

CASE XXXIII. *Resolved*,—"That such Notice was not given for the holding of the Election of a Member to represent the Town of Cornwall in the present Parliament."

Resolved,—"That this Committee have no reason to believe that the Result of the said Election has been affected by such Irregularity."

Resolved,—"That, in the opinion of this Committee, the conduct of the Returning Officer, at the said Election, in giving the Notice thereof, was not in accordance with the said Act."

Resolved,—"That the Honourable John Hillyard Cameron was Duly Elected to serve as a Member to Represent the said Town of Cornwall in this present Parliament."

Resolved,—"That neither the Petition, nor the Defence to the same by the Sitting Member, are Frivolous or Vexatious."

CASE XXXIV.

COUNTY OF STORMONT.

The Committee was ballotted 17th March, 1848.

ANDRÉ JOBIN, Esquire, M.P.P. for the County of Montreal,
(Chairman.)

Colonel DUCHESNAY, M.P.P.
for Portneuf.

JOSEPH C. TACHÉ, Esq.,
M.P.P. for Rimouski.

THOMAS BOUTILLIER, Esq.,
M.P.P. for St. Hyacinthe.

JOSEPH C. MORRISON, Esq.,
M.P.P. for West York.

The Hon. HY. J. BOULTON,
M.P.P. for Norfolk.

DAVID THOMPSON, Esq.,
M.P.P. for Haldimand.

ROBERT BELL, Esq., M.P.P.
for Lanark.

JAMES HALL, Esq., M.P.P.
for Peterborough.

LEWIS T. DRUMMOND, Esq.,
M.P.P. for Shefford.—Nom. for P.

The Hon. J. A. MACDONALD,
M.P.P. for Kingston.—Nom. for S.M.

Petitioners :—DONALD ÆNEAS MACDONELL, Esq., a Candidate, and others, Electors.

Sitting Member :—ALEXANDER McLEAN, Esq.

MR. MACDONELL appeared as Agent for the Petitioners.

THE Allegations of the Petition in this Case, are materially the same as in the last, with the addition of the following Charges :—

That the Deputy Returning Officer for the Township of Cornwall received Votes upon Property within the Town of Cornwall; the Voters having also voted for a Member to Represent the said Town.

Case XXXIV. And that the Returning Officer was not a Freeholder of the County of Stormont, nor had he resided therein for twelve months prior to the Election, as required by the Statute.

Returning
Officer not
Free-
holder.

Opening
by Peti-
tioners.

The Case for the Petitioners being opened by MR. McDONELL, he proceeded with that part of the Petition which alleges the insufficiency of the Notice by the Returning Officer, of the time of holding the Election.

Witness
objected to.

A Witness for the Petitioners being sworn, was objected to on the part of the Sitting Member, on the ground that he had signed the Petition against the Return, and was therefore liable for the Costs, if Costs should be awarded to the Sitting Member.

Objection
good.
Verbal
Evidence.

The Objection was held good.

It was decided by the Committee, that the Petitioners cannot be entitled to establish, by verbal Evidence, the contents of the Proclamations, unless they previously prove that the Proclamations have been destroyed, or have disappeared from the places where they were affixed.

Isolated
Proclama-
tions.

And, That the proof of isolated Proclamations having been put up, is no Proof that other Proclamations may not have been put up.

Notice.

By the Returning Officer, it was proved that the Proclamation giving Notice for the holding of the Election was issued by him on Thursday the 9th of December last, and the Election was held on the Thursday following. That he owned no Property in the County of Stormont except that lying within the Limits of the Town of Cornwall. That he allowed Votes to be received on Property situate within the Town of Cornwall, upon which they were not qualified to vote in the said Town.

Case
closed.

The Case for the Petitioners, being closed,

The Sitting Member was heard in reply.

Case XXXIV.

The Deliberations of the Committee not having been concluded before the Prorogation, it stood adjourned till the Second day of the ensuing Session.

Prorogation.

19th January, 1849.

This being the second day of the Session, the Committee resumed its Sittings.

The Chairman laid before the Committee, a Letter from Mr. McDonell, Agent for the Petitioners, stating, that should the Committee deem the want of sufficient Time, between the Proclamation and the day of Nomination, insufficient to invalidate the Election, he was prepared to enter upon proof upon the other points in the Petition.

Letter from Mr. McDonell.

The Committee *Resolved*,—"That by the words of the 6th Vic. chap. 1, (regulating the Election of Members of the Legislative Assembly,) "*at least Eight Days*," are Imperative, with regard to the Returning Officer, but cannot have the effect of rendering the Election Void, when the Insufficiency of Notice has not deprived any Elector of his right to Vote."

Resolutions.

Resolved,—"That an opportunity should be afforded to the Petitioners, to prove that the result of the Election was affected by the insufficiency of the said Notice; and that a certain delay be afforded them for that purpose."

Resolved,—"That the 20th day of February next, at 10 o'clock, P. M., is hereby appointed to hear the Parties, and take any Evidence that may be offered by them."

The Committee directed a copy of the above Resolutions to be transmitted to each Petitioner, respectively; and adjourned their Sitting until the 20th February following.

Case XXXIV.

20th February.

Final Decision.

No further Evidence being adduced before the Committee touching the Allegations in the Petition ;

The Committee, after deliberation, agreed to the following Resolutions, as their final decision upon the Case :—

Resolved,—"That in the Opinion of this Committee, Eight clear Days' notice of the Time and Place of holding an Election, are required by the Provincial Statute, 6th Vic. ch. 1."

Resolved,—"That such Notice was not given for the holding of the Election of a Member to Represent the County of Stormont, in the present Parliament."

Resolved,—"That this Committee have no reason to believe that the result of the said Election has been affected by such irregularity."

Resolved,—"That in the Opinion of this Committee, the conduct of the Returning Officer at the said Election, in giving the Notice thereof, was not in accordance with the said Act."

Resolved,—"That Alexander McLean, Esquire, was Duly Elected to serve a Member to represent the said County of Stormont in this present Parliament."

Resolved,—"That neither the Petition, nor the Defence to the same, by the Sitting Member, are Frivolous or Vexatious."

CASE XXXV.

COUNTY OF WATERLOO.

The Committee was Ballotted 5th February, 1849.

ROBERT NUGENT WATTS, Esquire, M.P.P. for Drummond,
(Chairman.)

The Hon. Mr. ATTY. GEN.
LAFONTAINE, M.P.P. for
Montreal,

The Hon. MALCOLM CAMERON,
M.P.P. for Kent.

TANCRÈDE SAUVAGEAU, Esq.
M.P.P. for Huntingdon,

WOLFRED NELSON, Esq.,
M.P.P. for Richelieu.

JOSEPH C. MORRISON, Esq.,
M.P.P. for West York.

The Hon. JAMES H. PRICE,
M.P.P. for South York.

DUNCAN MCFARLAND, Esq.,
M.P.P. for Welland.

Mr. SOL. GEN. BLAKE, M.P.P.
for East York.

WILLIAM NOTMAN, Esq.,
M.P.P. for Middlesex,
Nom. for P.

JOHN WILSON, Esq., M.P.P.
for London. Nom. for S.M.

Petitioners :—ADAM JOHNSTON FERGUSSON, Esq., a Can-
didate, and others, Electors.

Sitting Member :—JAMES WEBSTER, Esq.

MR. FERGUSSON appeared on behalf of the Petitioners.

THE Petition Alleges :—

That the Majority of Votes appearing on the Poll Books,
is composed of Persons not entitled to the Franchise.

That Polls were held in the Townships of Arthur, Nor-
manby, Egremont, Bentinck, Glenelg, Sullivan, Holland, Owen's
Sound Tract.

Case XXXV. Derby and Sydenham, situated in the territory of the Owen's Sound, Tract.

Voters
not Free-
holders.

That a very great Proportion of the Persons who voted in these Townships were not Freeholders; that the Lands on which they voted were vested in the Crown, no Patents having ever issued therefor.

Outrage.

That in the said Townships, no free or orderly Election was held; but a general scene of Outrage and Intimidation prevailed.

Agents.

That the Agents of Adam Johnston Fergusson, Esquire, were, in some of these Townships, forcibly carried off and were therefore unable to be present to represent Mr. Fergusson thereat.

That the Deputy Returning Officers for the said Townships admitted Persons to vote for Mr. Webster, indiscriminately, and without regard to their Property Qualification. And

Unneces-
sary Ques-
tions,
Oaths and
Entries.

That the Poll for the Township of Waterloo was not kept open a sufficient time for the Electors to record their Votes, and that much time was wasted in putting unnecessary questions to Voters, in favor of Mr. Fergusson, and making unnecessary entries in the Poll Book, greatly to his prejudice.

And Prays that the Election of Mr. Webster may be declared void, and that Mr. Fergusson may be declared duly elected.

Petition
not consid-
ered dur-
ing first
Session.

The Petition in this Case was not taken into consideration during the Session in which it was first presented; the Prorogation having taken place before the day appointed by the House for striking the Committee, had arrived. The Petition was renewed at the ensuing Session,

upon which, a Committee was appointed for trying the Case XXXV.
Case.

6th February.

The Clerk of the Crown in Chancery, by order of the Committee, produced the Poll Books, which were laid upon the Table.

MR. FERGUSSON, for the Petitioners, proceeded with the opening of his Case, and called Mr. Jones, a Clerk in the Crown Lands Office, who produced Lists containing the whole number of Patents issued up to the 1st February, 1848, (being subsequent to the Election,) for Lands in the Townships of Bentinck, Egremont, Glenelg, Holland, Normanby, Sullivan, and Arthur.

Petitioners' Opening.

7th February.

MR. WEBSTER not appearing, to defend the Seat, and no further Evidence being adduced,—the Committee came to the following as their final Resolutions in this Case:—

S. M. did not defend.

Resolved,—"That at the last Election for the County of Waterloo, 1409 votes were polled and recorded for James Webster, Esquire, and 1107 for Adam Johnston Fergusson, Esquire, and that thereupon, the said James Webster was, by Alexander Dingwall Fordyce, Esquire, the Returning Officer, proclaimed as being duly elected."

Final Resolutions.

Resolved,—"That of 688 Votes polled for Mr. Webster in the Townships of Bentinck, Glenelg, Holland, Sullivan, Normanby, Egremont, and Arthur, in the said County, 165 only were valid,—the remaining 523 votes recorded for Mr. Webster, were invalid; the Parties tendering the votes so declared invalid, had no title to the property upon which they proposed to vote, and this fact in 69 instances, appears on the face of the Poll Books."

Case XXXV.

Final Resolutions.

Resolved,—"That the Petitioner, Adam Johnston Fergusson, Esquire, having a majority of legal Votes on the Poll Books at the last Election for the County of Waterloo, was duly elected."

Resolved,—"That the facts connected with the last Election for the County of Waterloo, especially the conduct of the Deputy Returning Officers for the Townships of Waterloo, Holland, Sullivan, and Arthur, are such as demand the serious consideration of the House."

Resolved,—"That the Petition of Adam Johnston Fergusson, Esquire, is not Frivolous or Vexatious."

Resolved,—"That the Defence of the Sitting Member is not Frivolous or Vexatious."

The House subsequently ordered the Returning Officers mentioned in the above Resolutions, to attend at the Bar.

CASE XXXVI.

COUNTY OF PRESCOTT.

The Committee was Ballotted, 27th February, 1849.

JEAN CHABOT, Esq., M.P.P. for the County of Quebec,
(Chairman.)

GEORGE ET. CARTIER, Esq., M.P.P. for Verchères.	BILLA FLINT, Esq., M.P.P. for Hastings.
The Hon. LOUIS M. VIGER, M.P.P. for Terrebonne.	ANTOINE POLETTE, Esq., M.P.P. for Three Rivers.
CHARLES F. FOURNIER, Esq., M.P.P. for L'Islet.	JOS. CURRAN MORRISON, Esq., M.P.P. for West York.
PIERRE BEAUBIEN, Esq., M.P.P. for Chambly.	Nom. for P.
JAMES SMITH, Esq., M.P.P. for Durham.	GEORGE BYRON LYON, Esq., M.P.P. for Russell.
THOMAS FORTIER, Esq., M.P.P. for Nicolet.	Nom. for S.M.

Petitioner :—WILLIAM KENNETH MACKENZIE, Esq.

Sitting Member :—THOMAS HALL JOHNSTON, Esq.

MR. MACKENZIE appeared in his own behalf.

MR. JOHNSTON appeared, to defend the Seat.

THE Petition Alleges :—

That votes are recorded for the Sitting Member on
Property not situate within the Township in which the
votes were received.

Votes re-
corded not
in Town-
ship.

- Case XXXVI.** That several persons voted for the Sitting Member, who were not possessed of the requisite Qualification to entitle them to vote.
- Scrutiny.**
- Property not described in Poll Book.** That in the Township of West Hawkesbury many Votes were Polled for the said Sitting Member, without a Description of the Property, in right of which such Votes were given, being entered on the Poll Book.
- Open Houses and Treating.** That an Open House was kept in the said Township of West Hawkesbury, on the days of the said Election, within a few acres of the Hustings, where many of the Voters of the Sitting Member were entertained with Liquor, Food and Beds at his expense.
- Bribery, &c.** That Bribery, Corruption, and Intimidation were resorted to by the Sitting Member, and that promises of Place were made by him to persons who voted for him.
- New Writ.** And prays that the Return may be cancelled, and that a new Writ may issue.

28th February.

- Poll Books.** The Clerk of the Crown in Chancery, by order, laid before the Committee, the Poll Books taken at the last Election for the County of Prescott.
- Petitioner's opening.** MR. MACKENZIE proceeded with his Opening, and Alleged:—
- Allegations.** 1st. That two Votes were received in one Township upon land situated in another,—contrary to the provisions of the Act 5 Vic. Ch. 1, Sec. 7.
- 2nd. That many Votes were received upon the Poll Books of the Townships of West Hawkesbury and Longueuil, without a description of the property upon which the votes were so received, being described upon the said Poll Books.

3rd. That Bribery, Corruption, Intimidation and pro- Case XXXVI.
 mises of Place were resorted to, on behalf of the Sitting
 Member.

And concluded, by urging the Committee to vitiate the Conclusion.
 Election upon the two first allegations.

MR. JOHNSTON was heard in reply.

The Committee decided that they would not give judg- Decision.
 ment upon any of the allegations in the Petition, until the
 Evidence was produced upon the whole Case.

Whereupon the Petitioner desired that a Commission Commis-
 sion.
 might be issued for taking the Evidence upon the last
 allegation, as well as upon the Scrutiny.

The Committee then adjourned for a fortnight.

Adjourn-
 ment.

28th March.

The Commission issued in this Case, being returned, the Commis-
 sion re-
 turned.
 Chairman laid the same, with the Evidence, before the
 Committee.

MR. MACKENZIE was heard, and requested leave to ex- Additional
 Witness
 desired.
 amine before the Committee, the Honourable James H.
 Price, Commissioner of Crown Lands ; to shew that no Pa-
 tents had issued, up to the date of the last Election, for cer-
 tain Lots of Land situate in the Township of Plantaga-
 net, in the County of Prescott,—and upon which, Votes
 were recorded upon the Poll Book taken for that Township.

It was urged on behalf of this request, that although the Not on the
 List.
 name of Mr. Price was not on the List of Witnesses handed
 in to the House, it was competent for the Committee to re-
 ceive it, before the Evidence taken under the Commission,
 was read; and maintained, that the List of Witnesses
 handed in, was only for the guidance of the Commis-
 sioners.

- Case XXXVI.** Mr. JOHNSTON was heard in opposition to this request, and stated, that there was no precedent for Witnesses being examined upon the merits of the Petition, after the Evidence had been closed by the Commissioners, and cited the only Canadian Cases in which Evidence was received after the Return of a Commission, viz.: Halton Case, 1845, in which the Commissioners were called to prove that certain Oaths had been duly administered in pursuance of the Statute, previous to their assuming their duties under the Commission; and the Oxford Case, 1845, where the Agent for the Petitioner was called to prove the delivery of the List of Objected Votes, pursuant to the Order of the House.
- S. M. heard in Objection.**
- Precedents.**
- Halton Case.**
- Oxford Case.**
- Votes objected to, not on List.** MR. MACKENZIE admitted that the Votes now sought to be struck from the Poll, were not upon his exchanged List of Objected Votes.
- The Room was cleared.
- Decision.** The Committee decided against the request of the Petitioner.
- Application to House.** MR. MACKENZIE then requested the Committee to adjourn, that an application might be made to the House, on his behalf, for leave to add to his List of Witnesses the name of the Hon. Mr. Price, as also to add certain names to his List of Objected Votes.
- Adjournment.** The Committee then adjourned for twenty-four hours.

29th March.

- Application rejected by the House.** At the meeting of the Committee, this day, Mr. Mackenzie stated, that his Application had been made to the House, and rejected; whereupon he proceeded with his Case; and stated, that he abandoned the allegations of Bribery, Intimidation, promise of Place, Treating, and, that the Sitting Member had not a majority of legal Votes; and
- Bribery, &c. abandoned.**

rested his Case solely upon the two allegations as first opened to the Committee, viz. :—That the Election was a void Election, on the ground that two Votes were recorded in the Township of Plantaganet upon property situated in the Township of Alfred. And 2nd. That the property on which Votes were Polled in West Hawkesbury and Longueuil was not described in the Poll Books, as contemplated by the Act of Upper Canada providing the form for recording the Votes. The Evidence proving these Facts, appear upon the face of those Books, which were laid before the Committee by the Clerk of Crown in Chancery.

Case XXXVI.

Election
sought to
be avoid-
ed on two
first
grounds.

MR. JOHNSTON was heard in reply, and stated, in reference to the allegation, "that two Votes were received in Plantaganet upon property in Alfred;"—That they were the Votes of his Agents, and were received by consent of all parties. And with respect to the allegation in the Petition, "that a number of Votes were received in West Hawkesbury, and the property voted upon, not described in the Poll Books;"—That such only were received in this way as were undisputed as to Qualification, and that if any injury was done by this irregularity, it fell upon his (the Sitting Member's) interests, as the majority of the Votes so received were polled for the Opposing Candidate, Mr. Stewart.

S. M.
heard—

Votes of
his Agents.

Undispu-
ted votes.

MR. JOHNSTON concluded by urging upon the Committee that the Petition should be declared Frivolous and Vexatious, on the ground that the Election is not proved to have been affected by the irregularities complained of; and the Evidence taken under the Commission is abandoned by the Petitioner; although issued at his instance, and contrary to his (Mr. Johnston's) desire.

Petition
urged to
be Frivo-
lous and
Vexatious.

MR. MACKENZIE was again heard.

Case XXXVI. The Room was cleared ; and, after some deliberation,
Adjourn- the Committee (upon leave first obtained from the House)
ment. adjourned for eight days.

5th April.

Decision. The Committee decided, that the mere Facts apparent
upon the Poll Books, of Votes being Polled without the
property being described upon the Poll Books ; and of two
persons having Voted out of the Township where the pro-
perty on which they Voted was situated,—are not sufficient
grounds upon which to avoid the Election.

And

Final Res- *Resolved,*—"That Thomas Hall Johnston, Esquire, the
olutions. Sitting Member, was duly Elected to represent the County
of Prescott at the last Election for that County."

Resolved,—"That the Petition in this Case is not Frivo-
lous or Vexatious."

Resolved,—"That the Defence of the Sitting Member is
not Frivolous or Vexatious."

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MEMBERS OF THE HOUSE :

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3. Amended by the House, on it appearing on the face of the Poll Book, that the other candidate had a majority of votes (Oxford case, 1848), 93.—Petition presented by the candidate who had been unseated, 94. Returning Officer declared guilty of a breach of privilege, &c., 98.—On a Special Return,—by inserting the name of the candidate at the head of the Poll (Kent case, 1848), 101.
4. Double Return; Committee of Privilege appointed, upon whose recommendation, a Grenville Committee was appointed to try the merits of the election; Report one of the candidates duly elected, (Lincoln case, 1835,) 30.
5. Special Return, that the candidate at the head of the poll had not produced a declaration of Qualification until after the close of the Election; Returning Officer leaves it to the House to decide on the Election (Kent case, 1848), 100. Clerk of Crown in Chancery ordered to lay the Poll Books before the House; Resolution, declaring candidate at head of the Poll duly elected, 101.

RETURNING OFFICER :

1. Has a right to grant a scrutiny of votes, if demanded (Northumberland case, 1825), 12.
2. Conduct of, in ordering certain votes to be struck off from the poll-book, declared illegal and improper (Glengarry case, 1825), 15.—Election void, 16.
3. May not grant a scrutiny after the expiration of six days from commencement of the election ; election declared void in consequence of such a scrutiny (Prince Edward case, 1831), 17.
4. Authority of, extends to any compass within which riot or improper interference would tend to disturb the freedom of election (Leeds case, 1835), 26.
5. Conduct declared to have been highly reprehensible, but allegations against him not sufficiently proved to avoid the election (Lennox and Addington case, 1841), 44.
6. Conduct of a Deputy, in closing the (township) poll, in consequence a declaration of qualification having been demanded, and not given, declared an infraction of duty (Norfolk case, 1844-5), 81.
7. Conduct of, in returning the candidate second on the poll, on account of alleged disqualification of the candidate having the majority of votes, declared illegal, &c. ; Address to His Excellency to deprive him of a certain office, as a warning to Returning Officers generally (Oxford case, 1848), 98.
8. Conduct of, in giving a shorter notice of the day of nomination than the law requires, declared to be not in accordance with the Statute (Cornwall case, 1848), 105.—(Stormont case, 1848), 110.
9. Attention of the House drawn to the conduct of certain Deputy Returning Officers, in taking votes in many instances, on property to which the parties had no title (Waterloo case, 1849), 114. (They were subsequently summoned to appear at the Bar.)

See *Committee* (1, 10.)

SCRUTINY:—See *Returning Officer*.

SHERIFF :

Question of ineligibility of a candidate, on the ground of his being Sheriff of the District, *raised*,—See *Candidate* (2.)

SITTING MEMBER :

1. Defence declared frivolous and vexatious (Leeds case, 1835), 26.
2. Allowed to defend against the petition, notwithstanding vacation of his seat by acceptance of office (Niagara case, 1841), 47.—(Oxford case, 1848), 96.

SITTING MEMBER—(continued.)

3. May not go into proof (upon no poll having been held in certain townships) that he still represents the majority of the electors; Election declared void (Lanark case, 1844-5), 84.
4. Confined to his declaration of qualification at the poll (York case, 1844-5), 64. Thereon declared disqualified; Petitioner (opposing candidate) declared duly elected, 66.
5. Does not appear to defend the seat (Waterloo case, 1849), 113.

SPECIAL RETURNS:—See *Return*.**TIMBER :**

Annual receipts from sale of timber on wild land, not to be estimated in valuing a freehold for giving a right to vote (Oxford case, 1844-5), 75.

TREATING :

By Sitting Member, does not avoid the election (Lennox and Addington case, 1841), 44.

VOTES :

1. On Location Tickets, declared to be bad,—See *Location Tickets*.
2. Of Aliens,—See Oxford case, 1844-5, p. 76.
3. Proved to have been given on property to which the parties had no title, by comparing the Poll Books with a list of all the patents issued in the locality in question (Waterloo case, 1849), 113.
4. On property not described in the Poll Book, admitted (Prescott case 1849), 119.
5. On property situate in another Township, admitted (*ib.*), 119
See Equality of Votes. Freeholders. Objected Votes. Returning Officer.

VOTERS :

An admission by a voter, subsequent to the election, that the vote given by him was illegal, cannot disqualify such vote (Northumberland case, 1825), 12.

An admission of a voter, so far as it may go to disqualify his vote, may be received in evidence (Durham case, 1825), 14.

WITNESS :

1. Rejected as incompetent, on account of his having signed the petition (Lennox and Addington case, 1841), 43.—(Stormont case, 1848), 108.
2. Admitted to give evidence upon one of the charges, though present when evidence was received upon another charge (Lennox and Addington case, 1841), 44.

WITNESS—(continued.)

3. Petitioner not allowed (after Return of the Commission) to bring a witness not in his list (Prescott case, 1849), 118.—Not allowed by the House to add to his list of witnesses and objected votes, *ib.*

See *Evidence.*

WRIT :

1. Issued, on it appearing that each of the candidates had an equal number of votes, 11, 14.
2. ——— on election being declared void, 16, 17, 21, 22, 56, 84.
3. Recommendation by a committee, (that before the issuing of a new writ for the County of Leeds, on the election having been declared void), measures be adopted for securing the freedom of election in the County: Recommendation adopted, and Bill passed by the House for the purpose (Leeds case, 1835), 27.